



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, OLC, O

Introduction

The tenants, by amended application, seek to cancel a one month Notice to End Tenancy for cause dated May 26, 2014 and a ten day Notice to End Tenancy for unpaid rent dated June 17, 2014. They also seek to obtain a compliance order and “other” relief for unspecified things.

At hearing it was confirmed that the ten day Notice was cancelled by timely payment and the only relief sought was to cancel the one month Notice to End for cause.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities that the tenants or either of them have unreasonably disturbed or significantly interfered with other occupants or the landlord, as alleged in the Notice?

Background and Evidence

Ms. H. for the landlord provided her written statement that “the tenants kept the building up all night” on the evening of May 25/26, 2014, with their screaming and yelling, loud fighting and slamming doors and arguing. She was not there that night and has no personal knowledge of the incident. Her statement and testimony relate that she attended at the premises the next morning and from the lobby heard the tenants screaming and yelling. She received two verbal complaints from unnamed tenants and from the building manager, who resides there.

The landlord’s representative also tendered evidence about conduct occurring after the Notice was served. However, as stated at hearing, that evidence has little to do with whether or not there were reasonable grounds for the Notice when it was served in late May.

The tenants say they are trying to kick a methadone habit and so were agitated that night/morning.

Analysis

Whether the tenants were trying to go drug free or not seems to me not to be an excuse for unreasonably disturbing others. These tenants appear to admit they were making a lot of noise that night/morning and I find that they were yelling and screaming at each other.

However, it is my task to determine whether it has been established that occupants were *significantly* interfered with or *unreasonably* disturbed and I find that it has not.

The evidence of anonymous witnesses, other tenants in this case, is simply not admissible except in the most extreme situations involving a proven risk of retribution and, even then, only by judicial permission obtained before the testimony is offered. In this case that evidence is further removed by it being second hand evidence.

It is not clear that the building manager was disturbed unreasonably but if he was, he should have provided direct evidence to that effect. Normally he would be available at the hearing to be questioned over such a crucial determination.

In result, the evidence tendered is simply too weak to reasonably support such a severe outcome as eviction.

Conclusion

The tenants' application is allowed. The Notice to End Tenancy dated May 26, 2014 is cancelled.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 10, 2014

Residential Tenancy Branch

