



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lougheed Village Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC; FF

Introduction

This Hearing dealt with the Tenants' application to cancel a *One Month Notice to End Tenancy for Cause* issued July 16, 2014 (the Notice); and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The Tenants served the Landlord with the Notice of Hearing documents by handing the documents to the Landlord on July 18, 2014. The Landlord provided the Tenants with his documentary evidence by posting the documents on the Tenants' door on September 7, 2014. The Tenants provided the Landlord with their documentary evidence by handing the documents to the Landlord on September 11, 2014.

The Tenants stated that they received no documents from the Landlord other than the Notice to End Tenancy until September 7, 2014, and therefore they had no idea what the Landlord was basing the Notice to End Tenancy on.

Both parties wished to continue with the Tenants' application.

Issue to be Decided

- Should the Notice be cancelled?

Background and Evidence

The Landlord's agent MB gave the following testimony:

The rental property is made up of four apartment buildings with a total of 96 units. MB stated that he is the property manager for the rental property and that he was hired "one year ago". MB testified that the current Landlord took over the rental property approximately 2 years ago.

MB stated that he received a phone call from the Tenants at 4:00 p.m. on July 14, 2014, advising that a car beside the Tenants' car was leaking oil. MB testified that the Tenants wanted him to have the car towed away immediately and that they stated that they would call the police if he didn't do so.

MB stated that he told the Tenants that the owner of the car was on vacation. MB testified that they discovered the leak about 2 weeks before the Tenants called about it and that the leak was contained. He stated that he was monitoring it until the owner got back from vacation. He testified that the male Tenant stated that he was going to call the towing company or the police or the fire department and that the male Tenant hung up.

MB testified that about ½ hour later he got "about 50" calls from other occupants in the rental property, concerned that there was a fire. MB went to speak to the fire department chief. MB stated that the chief just wanted to be sure that the Landlord was aware that the car was leaking oil. MB provided a copy of the chief's report.

MB stated that the male Tenant was intimidating and abusive to MB and his wife and employees, swearing and yelling at them. MB stated that it was the "last straw" when the Tenants called the fire department and that it alarmed the other residents.

The male Tenant IF gave the following testimony:

IF stated that the Tenants first noticed the oil spill about "two weeks" before they called the fire department. IF testified that he sent letters to the Landlord, complaining that the spill was a fire hazard and a tripping hazard. He stated that he asked the Landlord to clean it up twice: on July 5 and July 11, 2014. IF stated that his wife slipped on July 14, 2014, so he called MB. IF stated that after MB refused to do anything, he called the Engineering Department who suggested he call the fire department.

IF stated that the fire crew came in a small truck and put absorbent material down. He stated that the small truck was not a large fire truck and that there should have been no cause for alarm.

Analysis

The Notice indicates the following reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
- Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

In this case, I find that the Landlord has not provided sufficient evidence to support the Notice. The Landlord provided no evidence that the Tenants had engaged in illegal activity. The Landlord provided insufficient evidence that the Tenants were given notice that their behavior towards MB or other occupants was disturbing to them.

For the reasons set out above, I find that the Notice is not a valid notice to end the tenancy and it is canceled. The tenancy will continue until it is ended in accordance with the provisions of the Act.

It is important to note that MB testified during the Hearing that the Tenants had provided him with written materials by leaving the documents at his home address (which is in the rental property) rather than at his office (which is also at the rental property). I cautioned both parties to be respectful and cordial towards each other. I suggested that the Tenants provide MB with written materials at his office, rather than his home.

I make no order with respect to recovery of the filing fee.

Conclusion

The Notice to End Tenancy issued July 16, 2014, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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: October 03, 2014

Residential Tenancy Branch

