



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Salmo Seniors Citizens Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for cause.

The tenant and an agent for the landlord society attended the call, each gave affirmed testimony and each provided evidentiary material in advance of the hearing. The landlord also called 2 witnesses who gave affirmed testimony. The parties were given the opportunity to cross examine each other and the witnesses on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

Has the landlord established that the notice to end tenancy was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on July 15, 2010 and the tenant still resides in the rental unit. Rent in the amount of \$291.00 per month is payable in advance on the last day of each month for the following month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$129.00 which is still held in trust by the landlord.

The landlord's agent further testified that the tenant was personally served with a 1 Month Notice to End Tenancy for cause on August 26, 2014 at the rental unit. A copy of the notice has been provided and it is dated August 26, 2014 and contains an expected date of vacancy of September 30, 2014. The reasons for issuing the notice are:

- Tenant has allowed an unreasonable number of occupants in the unit/site;
- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk.

The landlord's agent testified that the tenant's rental unit is a 1 room bachelor suite, and the tenant has permitted her daughter and husband, the tenant's granddaughter and her boyfriend, and the tenant's great grandson to be there too often. The landlord's agent has provided a ledger showing the dates and times starting in May, 2014 and ending in September, 2014. She stated that the writer stopped keeping track when the effective date of the notice to end tenancy approached.

The landlord's agent also testified that the rental unit is in a senior's complex and the tenancy agreement specifically states: "THAT no running anywhere on the property is allowed. Tenants agree that any excessive noise will not be tolerated, and could lead to disciplinary action," and "THAT all visiting family members, especially Children, must be under the supervision of a parent or guardian at all times when outside. Tenants agree that excessive noise from any source is grounds for immediate eviction." The landlord's agent testified that the tenant's 4 year old great grandson runs around and screams. He's been seen with a stick dragging it across a wall and knocking off stucco, and has not been supervised. The tenant has been sleeping in her lawn chair while the child runs wild. The landlord's agent has tried to talk to the tenant, but the tenant continues to agree to reduce the visits of so many people and then doesn't cooperate. Notices in writing have been given to the tenant, and now more people, being friends or relatives of the tenant have been added, and it's really loud. The child has been attending at the rental complex since birth and the older the child gets, the noise escalates and the more problems it causes in the rental complex. Copies of the warning letters have been provided and they are dated September 23, 2012 and September 25, 2013. The first specifies that the landlord has received numerous complaints about the noise caused by visitors on a regular basis and that other tenants' lives are disrupted by the screaming at all hours. The second letter specifies that the landlord continues to receive complaints about the tenant's great grandson running, riding his bike on the sidewalk and screaming, as well as interfering with tenants on their scooters.

The landlord's first witness testified that during the summer, she witnessed the tenant in her lawn chair while the tenant's great grandson was running around and tried to wake her up. The witness thought there was a medical crisis because the child couldn't wake

the tenant, so the witness did. The tenant advised the witness that it was a game they played, but the witness had to wake up the tenant.

The witness also testified that there have been anywhere between 5 to 10 people congregating in the front yard of the complex along with German Shepherd dogs, and they were very loud. Times of the visits would vary, and the witness kept track referring to an exhibit provided, and stated that the dates on the ledger are the days that the tenant's great grandson was there. The tenant babysits him and he's been raised at the rental complex all summer. The witness could see the child running across the green space and mostly every day there were 3 to 5 or even 6 more people, and toward evening more people would come. The parties were loud, laughing, chasing the child and on occasion the child would go to the second floor of the complex by himself. On one occasion the child was seen on another tenant's scooter. That tenant was stone deaf and the child was quite away from his group and no one seemed to be doing anything about it. Another tenant scooted the child away. The witness testified that it's been a difficult summer for all tenants and referred to letters provided from other tenants.

The landlord's second witness testified that she was present when the warning letter was delivered to the tenant on September 23, 2012. The tenant initialled the paper showing that she received it, the tenant said that she knew it, and that's all she said. Nothing has changed since the letter was delivered.

The tenant testified that there is nothing wrong with the tenant's great grandson being on the rental property, and that she considers herself very lucky to have a great grandchild. She stated that they play games where the tenant pretends to be asleep, but denies that she did fall asleep.

The tenant further testified that no one has ever complained to her about the child so she didn't think it bothered anyone. People were kind to the child, and a number of the people in the front yard were other tenants of the complex.

Analysis

Where a tenant disputes a notice to end tenancy, the onus is on the landlord to establish that it was issued in accordance with the *Residential Tenancy Act*. I have reviewed the notice, and I find that it is in the approved form and contains information required by the *Act*.

With respect to the reasons for issuing the notice, I have reviewed the evidentiary material, and I am satisfied that the tenant was warned twice in writing by the landlord of

the unreasonable number of people at the rental complex and the amount of noise generated by the tenant's company. The tenant testified that no one has complained to her but agrees that the letters were received. The tenancy agreement specifically states that noise will not be tolerated, nor will unsupervised children. The landlord's agents and witnesses have testified that the child goes to the second floor unattended, and screams while playing and running around, and in the circumstances, I am satisfied that the landlord had cause to issue the notice, and the tenant's application is hereby dismissed.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

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: November 10, 2014

Residential Tenancy Branch

