



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This hearing was held in response to the tenant's application to cancel a 1 month Notice ending tenancy for cause issued on September 17, 2014.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

Issue(s) to be Decided

Should the 1 month Notice to end tenancy for cause issued on September 17, 2014 be cancelled?

Background and Evidence

The tenancy commenced in 2013; rent is due on the first day of each month.

The tenant confirmed that she received the Notice ending tenancy on September 17, 2014; she applied disputing it on September 25, 2014.

The landlord and the tenant agreed that the Notice ending tenancy was issued for the following reasons:

- the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful interest of another occupant or the landlord; and

- that the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

There was no dispute that on the evening of September 11 or 15, 2014 the landlord had an altercation with the tenant's fourteen year old son. The child and several friends had left their bikes on the walk outside of the front of the building; the landlord moved them to the side. While carrying out business with other tenants the child came to the office and asked the landlord if he had a patch kit. The child said the landlord had flattened his tire. The agent told the child to leave and get a parent. The child refused to leave and then went to the foyer with his friends and caused a disturbance by being loud.

The landlord found out that the child called his employer and accused him of slashing the bike tire. The children had blocked the door to the building; that resulted in a hazard and they had shown the landlord disrespect.

The landlord completed his work with other tenants and then met with the person who was looking after the tenant's child that evening. She accused the landlord of having acted improperly; stating he had intimidated the child. The landlord asked the adult to have the tenant contact him. When the tenant failed to contact the landlord he issued the Notice ending tenancy.

The landlord suspects the children are causing marks on the stairwell walls, as the result of carrying their bikes up the stair well. The landlord also has video of the children carrying their bikes into the building on the same day that tire marks were made on the carpet in the hallway. The landlord believes the tenant's child did this. Since the incident there has been graffiti placed on a wall which matches the handwriting of the tenant. Someone has also spit in the stair well.

The tenant said that as soon as she became aware of her child's behavior he was disciplined. She agreed that his behavior was not reasonable. The tenant has also had her children remove marks from the stairwell, as she respects the building. The tenant was insulted that the landlord would accuse her of placing graffiti on the walls, she did not do this. The tenant said that this situation is out of hand and she is not sure how that happened. She was not asked to meet with the landlord and had no contact by the landlord, with any complaint, until the Notice was issued.

Analysis

After considering all of the testimony, I find that the landlord has provided insufficient evidence in support of the reasons on the Notice.

The events that occurred on the evening described by the landlord are what I find constituted a minor altercation. The tenant has not denied that her child may have acted inappropriately, but this one-time event does not form cause to end the tenancy. The tenant and landlord have agreed that any issues should be discussed with the tenant, not

her children. The landlord confirmed during the hearing that it would have been reasonable to communicate only with the tenant; that his interactions with the tenant's friend did not contribute to a proper resolution.

The tenant has acknowledged some marks on the walls and that she has her children remove any marks they cause. I find this is an action of someone who does take care not to damage the building. There was no evidence before me that the tenant had written graffiti on the walls, and I have rejected that allegation made by the landlord.

If a landlord has concerns regarding an occupant's behavior the landlord should communicate with the tenant. Issuing a written record of the allegation and communication with the tenant can help to avoid recurrences of problems. In this case there was no evidence before me proving, on the balance of probabilities that the tenancy should end for the reasons given on the Notice. No discussion of the alleged events, no written notice or warning or any other attempt to review the events was made by the landlord. The tenant is not denying that her child may have acted inappropriately. Even if the child had left his bike on the walk and misbehaved, that is insufficient cause to end the tenancy.

Therefore, I find that the Notice ending tenancy issued on September 17, 2014 is of no force and effect. The tenancy will continue until it is ended in accordance with the legislation.

Conclusion

The 1 month Notice ending tenancy for cause issued on September 17, 2014 is of no force and effect.

This decision is final and binding and 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 04, 2014

Residential Tenancy Branch

