



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions. The tenant was assisted by an advocate who provided testimony. The landlord's witness was not required.

The landlord did not make any applications at this hearing and made no request for the issuance of any orders at the hearing.

Service of Dispute Resolution Hearing Notice and Package

The landlord testified that the 1 Month Notice was personally served on October 27, 2014. The tenant acknowledged receipt of this notice. Pursuant to section 88 of the *Act*, I find the tenant duly served with this 1 Month Notice on October 27, 2014.

The tenant's advocate testified that, in response to the 1 Month Notice, she served the application for dispute resolution and the Notice of Hearing by placing it in his mailbox on November 10, 2014. The landlord acknowledges receipt of this package on November 11, 2014. Based on all the testimony and in accordance with sections 89 of the *Act*, I find that the tenant's dispute resolution hearing package was served to the landlords on November 11, 2014.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled?

Background and Evidence

This month to month tenancy commenced on October 1, 2014 with a rental amount of \$460.00 to be payable on the first of each month. The landlord holds a \$230.00 security deposit paid on or about September 15, 2014.

The landlord testified that the 1 Month Notice was issued on the basis that the tenant has put the landlord's property at significant risk; engaged in illegal activity that has, or is likely to damage the landlord's property; and the tenant knowingly gave false information to a prospective tenant or purchase of the rental unit or property pursuant to section 47(1) of the *Act*.

The landlord identified a potential witness to be called on his behalf. That witness provided the tenancy agreement to the tenant. The landlord's testimony with respect to the initiation of this tenancy was accepted and this witness was not required.

The landlord testified that the tenant has "garbage" on the patio of the residential property. He states that it has been there since the start of her tenancy and has not been moved since then. He also states that, since the tenant moved in, he has had to make a variety of repairs to the property at her request. On one date, he testified that he attended to make repairs in the rental unit and the next day, the tenant requested other items be fixed.

The landlord testified that the tenant has eight or nine cats in her suite. He testified that there is a "cat smell" and that the tenant did not declare how many cats she had when she moved in. He did testify that there were no restrictions on pets on the rental agreement and there were no restrictions discussed with the tenant when she moved in.

The landlord believes that his property is at risk because he has seen the tenant leave the stove on when he has been in her unit. He also believes that the garbage on her patio may become too wet and heavy and cause damage to the patio. He also believes that the tenant's cats are creating odours and stains within the rental unit.

The tenant testified that she moved from a much larger rental unit and does not have a place to store all of her belongings. She testified that the items on her patio are some of her belongings. Both the tenant and the tenant's advocate gave undisputed sworn testimony that these items are secure in plastic bins and covered with a tarp. The tenant testified that there are a number of discarded items on the property including; a broken down truck; an overturned swimming pool; beer cans; and cigarette butts. There are other tenants on the residential property.

The tenant's advocate confirmed that the property has many discarded items and litter on it. She further confirmed that there has been need for a multitude of repairs in the tenant's unit.

With respect to pets, the tenant testified that she has 4 kittens and 3 adult cats. She testified that she informed the landlord how many cats she had before moving in. She testified that she intends to find homes for her kittens as soon as possible.

Analysis

The landlord presented no evidence that the tenant knowingly gave false information to a prospective tenant or purchase of the rental unit or property. When questioned about this ground of complaint, he indicated that the tenant gave false information about how many cats she had. I find this ground for cause to end tenancy has not been substantiated.

The landlord presented no evidence that the tenant engaged in illegal activity that has, or is likely to damage the landlord's property. When questioned about this ground of complaint, the landlord testified that the tenant was not honest about the number of cats she owned. I find this ground for cause to end tenancy has not been substantiated as the landlord has not demonstrated that the tenant's actions in this regard are in any way illegal.

The landlord presented evidence to support the position that the tenant has put the landlord's property at significant risk. The landlord relies on three main factors to support his position;

- the tenant has too many cats who will cause odour or stains in the rental unit;
- the tenant has items on the patio that may become wet and cause the patio to collapse; and
- the tenant asks for repairs and assistance of the landlord in a disruptive and difficult manner.

Based on the evidence presented by both parties in this hearing, I find that the landlord does not have sufficient grounds to justify an end to this tenancy on the basis of placing the landlord's property at significant risk. I make this finding on the basis of my consideration of the following:

- The rental agreement in evidence does not stipulate any restrictions with respect to pets and the landlord presented no evidence, at this time, that the cats have caused damage to the rental unit.
- The rental agreement does not stipulate any restrictions with respect to use of the patio. The undisputed evidence of the tenant is that the patio is an extension of the tenant's rental unit. I am satisfied with the testimony of the tenant and her witness that the items are safely stored.
- The landlord did not dispute that repairs are needed to the rental unit. His testimony was that the tenant is difficult in the manner that she asks for those repairs.

Overall I find there was insufficient evidence from the landlord to allow me to find that the Notice to End Tenancy is justified.

Conclusion

The tenant's application is allowed. The Notice to End Tenancy for Cause is set aside with the effect that this tenancy shall continue.

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: December 2, 2014

Residential Tenancy Branch

