



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OJ Realty and Property Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application to cancel a one month Notice to End Tenancy that was given for cause.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties and the witness the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to cancel or uphold a Notice to End Tenancy that was given for cause.

Background and Evidence

The landlord testified that:

- The main reason this Notice to End Tenancy has been given is because they received a complaint from another tenant who claims that the applicant assaulted her and threatened her.
- There have been a few incidents at the rental property that show that the applicant seems to believe she can say and do whatever she wants.
- They believe they have been lenient with the applicant over the years however once they receive this written complaint they decided they had to take action.

- They have therefore given this Notice to End Tenancy as they believe that the applicant is unreasonably disturbing the other occupants and is jeopardizing the safety of the other occupants.

Witness for the landlord testified that:

- On January 8, 2015 she was at a friend's apartment to get assistance putting some table legs on a table she had purchased.
- While she was in the friend's apartment the applicant came into the apartment yelling and screaming at her and therefore she tried to leave the apartment however the applicant would not let her out.
- Later on the same day when she went to get my mail, it turned out to be just flyers and therefore she went to put them in the green recycling bin. The applicant was standing in front of the bin and so she asked her to move, and instead she body checked me and started yelling at me, and threatening me and telling me I better watch my back because she could hurt me.
- The applicant also frequently calls me names such as I'm crazy, mentally ill, a bitch, fat cow, as big as a house, and I'm too damn fat and that's why I need a walker.
- The applicant also accused me of taking something off her balcony when I was outside picking up poop from the dog I was dog sitting.

The tenant testified that:

- She has never harassed or threatened the witness, and in fact when standing by the mail area she did see the witness out of the corner of her eye; however it was the witness who shoved her very hard with her walker and her body, not the other way around.
- She did make a comment to the witness when she saw her picking up poop, because she didn't realize the tenant was dog sitting, and simply stated that she didn't have to do this. She never accused the tenant of taking anything off her balcony.
- After the conversation about the poop she got a profanity laced message on her answering machine from the witness.
- She has never made any bad comments to the witness nor called her any names. She is never threatened the tenant and in fact only said to the tenant she should watch what she's saying, as she felt the tenant was being disrespectful to her.

Analysis

It is my finding that the landlords have not met the burden of proving their grounds for wanting to end this tenancy.

When the landlord gives a Notice to End Tenancy the burden of proving the reasons for that notice lies with the landlord and in this case the evidence is insufficient to meet that burden of proof, as it is just one person's word against that of the other.

The landlords are relying on the witness testimony, however since it is just the witnesses word against that of the applicants, and the applicant denies the claims made by the witness, the landlords have not met the burden of proving that claim.

That being said, my decision does not mean that I accept one person's word over that of the other; it simply means that the burden of proof has not been met. Therefore I caution the applicant/tenant that she ensures that, in future, any interactions with other tenants or the landlord at this rental property are respectful, as the landlord's do have the right to give another Notice to End Tenancy in the future if they believe it is justified.

Conclusion

I hereby Order that the one-month Notice to End Tenancy dated January 9, 2015 is hereby canceled and this tenancy continues.

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: February 04, 2015

Residential Tenancy Branch

