



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause dated March 31, 2015.

The Notices alleges five grounds to end the tenancy under s.47 of the *Residential Tenancy Act* (the "Act"). They are:

- That the tenant has allowed an unreasonable number of occupants in the unit,
- That the tenant or a person permitted on the property by the tenant has;
 - o Significantly interfered with or unreasonably disturbed another occupant or the landlord,
 - o Seriously jeopardized the health or safety or lawful right of another occupant or the landlord,
 - o Put the landlord's property at significant risk.
- That the 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.

Each of these allegations is justifiable ground for eviction of a tenant under s.47 of the *Act*.

It was noted and the tenant's advocate objected that the tenant has not been informed of any facts alleged to support the grounds.

Issue(s) to be Decided

The preliminary issue is whether a landlord is obliged to inform a tenant challenging a Notice to End Tenancy for cause what the facts are that form the basis of the grounds alleged in the Notice.

Background and Evidence

During the preliminary portion of the hearing and prior to any testimony being given, the landlord's representatives alleged that the tenant is permitting unsavoury people into the premises. The tenant indicated that he had received no warning nor was he aware of this concern.

The landlord has not filed or given to the tenant any particulars of the allegations or any evidentiary material that might disclose the facts upon which it has concluded that any of the grounds in the Notice apply. It has not filed any material at all in support of the validity of the Notice.

Analysis

If a landlord serves a tenant with a one month Notice to End Tenancy and the tenant fails to challenge it by making an application to cancel the Notice within the permitted time, the tenant is conclusively presumed to accept the end of the tenancy (s. 47(5) of the *Act*).

If however, the tenant does challenge the Notice, then the initial burden falls to the landlord to demonstrate just cause for issuing it.

The tenant comes to this hearing without a clear understanding of:

- Who the alleged "other occupants" might be,
- Who significantly interfered with or unreasonably disturbed whom, how and when,
- Who seriously jeopardized the health, safety or lawful right of whom, how and when,
- Who put the landlord's property at significant risk, how and when,
- What illegal activity is being alleged and whose quiet enjoyment, security, safety or physical well-being has been adversely affected, how and when.

The consequences of a Notice to End Tenancy are serious. A tenant stands to lose his or her home and to be evicted, often with only a brief period to find new accommodation.

Not infrequently the facts in support of the grounds in a Notice will be apparent from the evidence submitted by a landlord and given to the tenant prior to hearing. Sometimes those facts are separately set out in a chronology or the like. That is not the case here.

There is nothing from which the tenant can fairly determine the basis for the claims made in the Notice.

In this case I find that it is fundamentally unfair to require the tenant to address any of the grounds in the Notice without having been informed of the basic facts alleged to support those grounds.

Conclusion

I allow the tenant's application and cancel the one month Notice to End Tenancy dated March 31, 2015.

As there has been no adjudication on the merits of the grounds claimed in the Notice, the landlord is at liberty to issue another one if it chooses.

This decision is rendered orally 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: May 21, 2015

Residential Tenancy Branch

