



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CARDIFF ESTATES LTD. C/O FIRST SERVICE RESIDENTIAL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OPC

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated April 8, 2015 to be effective May 31, 2015. Both parties were present at the hearing.

SERVICE:

I find that the Notice to End a Residential Tenancy was served by posting it on the door and the tenant served the application by registered mail. The landlord admitted service of the application for dispute resolution.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenant said his original tenancy began on May 1, 2009 and his current lease on December 1, 2013 when he was offered a nicer apartment. Rent is \$1330 (plus \$75 parking which may be subject to dispute) and he paid \$650 on November 6, 2013 at a change of lease when his original deposit was refunded.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by him has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- b) The tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.

The tenant said he almost did not attend today's hearing for he had had an email on May 13, 2015 from a building manager to say they were cancelling the Notice to End Tenancy. The landlord's building manager said she had only had the job three months and the former senior manager was on sick leave as of May 21, 2015. She said she knew nothing about the cancellation or email. The current senior property manager who

was also a witness said she had had the job for one month since the former manager took sick leave on May 21, 2015.

The landlord gave evidence that the Notice to End Tenancy for cause was based on issues of parking and the tenant's reaction. In March 2015, she said he parked his motor bike illegally, she took a picture and sent a letter to him and that night he knocked on her door outside of business hours, smelling of alcohol and was angry and told her not to dare to do anything with his motor bike. She told him to come back in the morning when he was not drunk. She said she was frightened and does not feel safe in the building now and the lease does not include free parking.

The tenant pointed out that he was a tenant of 6 years and had been considered a good tenant so a better suite was offered to him in 2013. He said he had a long standing arrangement of using spots assigned to him for parking with no issues and when he found threatening letters about parking in his door, he was upset. However, he notes he did comply and there have been no incidents since. He and the building manager had some conversation about where he had been directed to park beside the bike cage and he noted he should have made sure that parking arrangements were in his lease. He said he did apologize and there have been no further issues.

Analysis:

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The *Residential Tenancy Act* permits a tenant to apply to have the Notice set aside where the tenant disputes. I find the tenant disputed this Notice in time.

As explained in the hearing, the onus of proof is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy. I find insufficient evidence to support the landlord's position that this tenant is significantly interfering or unreasonably disturbing another occupant or the landlord or engaging in illegal activity that adversely affects their quiet enjoyment. Evicting a person from their home is a serious consequence and this tenant has been a 6 year resident. I find the weight of the evidence is that the landlord's notice was based on one incident concerning disputed parking and the senior manager and building manager have not been in their positions long enough to know what the parking arrangements were before they took these jobs. I find the tenant's evidence credible that he had an email from the previous building manager on May 13, 2015 while she still had authority and before she took sick leave; I find it credible that she emailed him that the Notice was being cancelled as this was one incident. I find the tenant is now complying with these new rules even if he disagrees with them and the landlord did not quote any subsequent issues since.

For these reasons, I set aside and cancel the Notice to End Tenancy dated April 8, 2015.

Conclusion:

I set aside and cancel the Notice to End Tenancy dated April 8, 2015 and find the tenant entitled to recovery of the filing fee as there is merit in his application. The tenancy is continued.

I HEREBY ORDER that the tenant may recover his filing fee by deducting \$50 from his rent for July 2015.

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: June 17, 2015

Residential Tenancy Branch

