



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order cancelling the 1 Month Notice to End Tenancy for Cause ("Notice") issued by the landlord to the tenant.

The tenant, his advocate, and the landlord's agents attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, question the other party, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Has the landlord submitted sufficient evidence to prove that they have cause to end this tenancy?

Background and Evidence

I was presented with undisputed evidence that this tenancy originally began on January 1, 2013.

The rental unit is located in a multi-unit building offering not-for-profit housing.

Pursuant to the Rules, the landlord proceeded first in the hearing and testified in support of issuing the tenant the Notice. The Notice was dated April 28, 2015, was served via personal delivery on that date, according to the landlord, and listed an effective end of tenancy of May 31, 2015.

The causes listed on the Notice alleged that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant or the landlord, and put the landlord's property at significant risk.

In support of their Notice, the landlord submitted that some of the issues the landlord has had with the tenant concern his aggressive behaviour, the fact he currently has no job to the entrance to the building, although required to have one, that he has had overnight guests in excess of the number of days permitted, and that he has contravened the program procedures for the residential property. The landlord submitted copies of these letters addressed to the tenant, the latest one being September 16, 2014.

The landlord submitted further the three main issues which were addressed with the tenant in a meeting on March 10, 2015, concerned the tenant's behaviour and inability to accept responsibility for his actions, for costs incurred for destruction of property, and for failure to comply with spraying for bedbugs. The landlord submitted further that the parties agreed upon a plan of action to address these concerns, and that was having the tenant agree to a payback plan of \$20.00 per month for 3 months, to sign a Behaviour Agreement and Crime Free Addendum by March 31, 2015, and to a final inspection of the tenant's couch and possible bedbugs.

According to the landlord, as memorialized in a letter to the tenant dated April 3, 2015, although the bedbug inspection took place on March 20, 2015, the tenant failed to make payments on the payback plan and had not submitted the Behaviour Agreement. The landlord submitted a copy of the letter.

The landlord submitted further that as the tenant failed to meet the conditions of continuing the tenancy, the executive staff met in April 2015, at which time the decision was made to end the tenancy by issuing the Notice.

The landlord submitted further that during this tenancy, the tenant has been involved in 2 acts of violence with another tenant on 2014 and that he failed to meet with the landlord about those acts.

The landlord submitted further that the tenant has continued to act aggressively towards the landlord's staff and that consequently, the staff feel threatened by the tenant.

Other points of concern raised by the landlord include complaints by other tenants of loud noises, addressed in a letter in 2013, and that the tenant continues to violate the Act and conditions of his tenancy by having overnight guests in excess of 14 days.

The landlord's additional relevant documentary evidence included, but was not limited to, letters or communication to the tenant, beginning in 2013, and the latest written tenancy agreement, with attached Behaviour Agreement and Crime Free Addendum.

Cross examination of the landlord's agents by the tenant's advocate-

The landlord confirmed that the latest act of violence alleged by the landlord was on August 15, 2014. The landlord submitted further that there were too many episodes of aggression or violence to include the documentation for the same.

The landlord submitted that the pest control company located the source of the bedbugs to be in the tenant's couch and that it was the responsibility of the tenant to keep his rental unit clean.

The landlord reiterated that the tenant has violated the program policy restrictions on overnight guests, that the tenant has refused to meet with the landlord, and that the tenant has failed to adhere to the payment plan for damages.

Tenant's response-

The tenant submitted that he was the one being attacked without provocation by another tenant, who, according to the tenant, had a head injury. The tenant submitted further that he reported the 4 attacks to the landlord, but that the landlord, despite assurances to the contrary, failed to address these attacks with that tenant. The tenant submitted that the landlord has this other tenant on tape making the attacks, that this tenant has attacked at least 10 other tenants, nothing being done about the situation.

As to the payment for the fob, the tenant submitted he would have the funds to pay for the item.

As to the issue of bedbugs, the tenant submitted that the landlord attended his rental unit at 7:00 a.m., but that he had spent 3 hours cleaning the rental unit. The tenant submitted that he did put his personal property in the bedbug room, as instructed by the landlord, and that he was not the one causing bedbugs in the residential property.

The tenant denied damaging the smoke detector.

Analysis

When a tenant has properly filed an application disputing a landlord's Notice to end a tenancy, as is the case here, the onus is on the landlord to substantiate that they had sufficient cause on the day the Notice was issued to end this tenancy.

In this case, the landlord has claimed that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the

health or safety or lawful right of another occupant or the landlord, and put the landlord's property at significant risk.

When reviewing the evidence of the landlord, I cannot find that the landlord submitted sufficient evidence to support their Notice. In reaching this conclusion, although the landlord submitted some letters issued to the tenant regarding alleged altercations with another tenant, the latest letter was dated September 16, 2014, regarding the incident on August 25, 2014. I find that any concerns with this altercation, whether caused by the tenant or not, was too remote in time to consider that it led to the issuance of the Notice on April 28, 2015.

The landlord stated that the tenant continues to be aggressive to the staff; yet I did not see written warnings to the tenant, or other proof, and this point was disputed by the tenant.

As to the issue of a payment plan for a job replacement or damage, while this may or may not be a violation of the landlord's policy program, a written agreement, or the tenancy agreement, I find this issue does not relate to the causes listed on the landlord's Notice.

As to the issue of the bedbugs, the landlord's letter of April 3, 2015, to the tenant confirmed there was cooperation by the tenant, as the inspection took place on March 20, 2015, as per their agreement.

As to the issue of the compromised smoke detector alleged to be damaged by the tenant, the landlord's evidence shows that this matter was addressed with the tenant through a letter of August 13, 2014. I find this concern was too remote in time to consider that it led to the issuance of the Notice on April 28, 2015.

As to the landlord's other issue, in the April 3, 2015, letter to the tenant, I do not find that the tenant's alleged failure to sign a Behaviour Agreement and Crime Free Addendum relates to the causes listed on the Notice. I was also not presented sufficient evidence to demonstrate why the Behaviour Agreement and Crime Free Addendum signed by the tenant in May 2014, was not sufficient for the landlord's purposes or why other agreements were required to be signed.

Even after the final letter to the tenant on April, 3, 2015, the landlord delayed until April 28, 2015, to issue the Notice, further leading me to conclude that the causes listed were not of an urgent nature.

Overall, when reviewing the landlord's evidence, I find insufficient evidence to show that on the day the Notice was issued, the landlord had cause to end this tenancy.

As a result, I find the landlord's 1 Month Notice to End Tenancy for Cause dated and issued on April 28, 2015, for an effective move out date of May 31, 2015, is not supported by the evidence, and therefore has no force and effect. I order that the

Notice be cancelled, with the effect that the tenancy will continue until ended in accordance with the *Act*.

Conclusion

I grant the tenant's application seeking cancellation of the landlord's 1 Month Notice, and the Notice is hereby cancelled with the effect that the tenancy will continue until ended in accordance with the *Act*.

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 12, 2015

Residential Tenancy Branch

