



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's application: CNC
Landlord's application: OPC, ET

Introduction

This was a hearing with respect to applications by the tenant and by the landlord. The hearing was conducted by conference call. The tenant attended with her named representatives. The landlord called in and participated in the hearing and I heard the evidence of the named witnesses for each party.

Issue(s) to be Decided

Should the Notice to End Tenancy for cause dated April 30, 2015 be cancelled?
Is the landlord entitled to an early end to tenancy?
Is the landlord entitled to an order for possession pursuant to the Notice to End Tenancy?

Background and Evidence

The rental unit is an apartment in the landlord's rental property. There are a total of eleven rental units in the building. The tenancy began in September, 2014. The monthly rent is \$600.00 and the tenant paid a security deposit of \$300.00 at the start of the tenancy. There is no written tenancy agreement, but there is a shelter information form with the female tenant named as the client. The form is dated August 8, 2014 and it refers to monthly rent of \$600.00 and a \$300.00 security deposit. The tenant also submitted a note from the landlord dated March 31, 2015. The note stated that the landlord agreed: "to lower rent on (address) to \$510 per month until September 1st 2015 so that (name of tenant) can catch up on power.

The landlord testified that he rented the unit to the female tenant and to her boyfriend J.M., although the boyfriend is not mentioned as a tenant in any document. The landlord served the tenant with a one month Notice to End Tenancy dated April 30,

2015. The Notice required the tenants to move out of the rental unit by May 31, 2015. The stated grounds for the Notice to End Tenancy were that the tenant is repeatedly late paying rent, that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, that she has seriously jeopardized the health or safety or lawful right of another occupant or the landlord and that she did not pay a security or pet deposit within 30 days as required by the tenancy agreement.

The landlord provided a written statement. In his statement and his oral testimony, he said that the tenant and her boyfriend are drug addicts and violent. He referred to an incident said to have occurred on April 21, 2015 when the tenant approached a person at a neighbouring property to demand payment of money owed to her boyfriend. The landlord said that a short time later the boyfriend threatened the individual with a baseball bat the landlord said the boyfriend was violent and out of control and the police had to be called. He said the incident occurred in the parking area of the rental property

The landlord claimed that the tenant has been repeatedly late paying rent. He said at the hearing that he had evidence to substantiate the late payments, but he did not submit any document to support the statement.

The landlord testified that the tenant and her boyfriend have violent and disturbing arguments. Other tenants and neighbours have complained and the police have been called on several occasions. The landlord said that he believes the tenants are using the rental unit to manufacture drugs. He said the tenants keep the windows covered with dark blinds and there is a strong chemical smell inside the rental unit. The landlord said the tenant removed the smoke detector in the unit. He submitted a letter from a realtor who visited the rental unit with him to take pictures. The realtor mentioned a conversation between the tenant and the landlord about the smoke detector. The landlord did not submit any pictures of the rental unit. The landlord said that the tenant has a cat and she is not allowed to have a pet. This is the basis for the ground that the tenant has failed to pay a pet deposit. He said that she has been seen taking the cat from the rental unit in a carrying case.

I heard evidence from the landlord's witness, Ms. G.C. who is the occupant of another rental unit in the building. G.C. testified that she is regularly threatened with physical assault by the tenant. She said that this happens every month. She also said it occurs every time she encounters the tenant. She said that the tenant believes incorrectly that she caused the tenant to be fired from her job. She said the tenant was "stalking" her and complained of constant loud music from the rental unit. She also testified that the tenant has regular fights with her boyfriend and she has had to call the police because of the level of violence involved and the noise and disturbance to other occupants.

The tenant's witness, Ms. D.A. is an employee of the same agency that employs the tenant's advocate. She said that she has been working with the tenant as a support worker for a number of months. She has visited the tenant at her apartment and she said that the apartment has been neat, clean and tidy on her visits. The witness testified that the tenant is not a violent person. She is a recovering drug addict and she has not used any drugs during the period of her tenancy. According to the witness and according to the tenant's testimony there is medical evidence including test results to show that that tenant has not been using any sort of drugs.

The tenant said her boyfriend J.M. does not live with her at the rental unit. She said that an incident occurred in April when she encountered her boyfriend's former employer and asked him to pay him some unpaid wages. She said that he refused to pay him and became aggressive. The tenant said this incident did not happen at the rental property, but at the ex-employer's residence. The tenant said that after the incident she learned that the ex-employer is a friend of the landlord. She said that the landlord became angry with her after this incident and that is when he began his efforts to evict her. She referred to text messages that she exchanged with the landlord at the time of the incident. The tenant denied all of the landlord's allegations and she denied that she has a pet

Analysis

The landlord claimed that the tenant's boyfriend, J.M. is a tenant, but the landlord has no documents or tenancy agreement to show that J.M. is a tenant. I do not accept that J.M. is the landlord's tenant and I find that he is not properly a party to this dispute resolution proceeding. The landlord has claimed that the tenant has been repeatedly late paying rent, but he has not provided any accounts, receipts or payment records to support his claim.

I did not find the landlord's witness, G.C. to be a credible witness. She was belligerent and aggressive in her demeanour and her accusations about the tenant's conduct appeared extravagant and exaggerated. The landlord claimed that the tenant and her boyfriend are violent drug addicts. It is apparent that there has been an incident involving the boyfriend and a neighbour, but I find that it has not been shown that it happened at the rental property or that it involved the tenant or was connected to the tenancy. The landlord has made claims about the use of the rental unit for producing drugs. The tenant denied all the allegations and plainly stated that she is not now a drug user. The landlord made claims about the condition of the rental unit, but despite having taken recent pictures for real estate purposes, he did not provide any photographic evidence to support his claims. I draw an adverse inference from the landlord's failure to submit any photographic evidence and I find that it supports the tenant's contention that the rental unit is neat and well kept.

The landlord's evidence as to grounds for ending the tenancy is denied by the tenant and her witnesses and the landlord's failure to provide essential evidence as to certain of the grounds for ending the tenancy causes me to have doubts about the testimony given on behalf of the landlord. I find that the landlord has failed to show, on a balance of probabilities that there are sufficient grounds to uphold the one month Notice to End Tenancy given to the tenant and given that conclusion there are certainly insufficient grounds to satisfy the higher threshold of establishing that there are grounds that would justify an early end of tenancy. I therefore dismiss the landlord's application for an order for possession and an early end of tenancy and I allow the tenant's application to cancel the Notice to End Tenancy dated April 30, 2015. The tenancy will continue until ended in accordance with the *Residential Tenancy Act*.

This decision does not preclude the landlord from issuing another Notice to End Tenancy if he considers that there are new grounds that would justify the issuance of another Notice to End Tenancy.

Conclusion

The landlord's application has been dismissed. The Notice to End Tenancy has been cancelled and the tenancy will 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: June 18, 2015

Residential Tenancy Branch

