



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was sufficiently served on the Tenants by posting on June 21, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other. The Application for Dispute Resolution filed by the Tenants does not identify the code indicating they were applying to cancel the one month Notice to End Tenancy. However, the details of the dispute clearly indicate this is what the Tenants are seeking. I ordered that the Application for Dispute Resolution filed by the tenants be amended to include a claim as follows "CNC – applying to cancel a one month Notice to End Tenancy dated June 21, 2015."

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to an order cancelling the one month Notice to End Tenancy dated June 21, 2015?
- b. Whether the landlords are entitled to an Order for Possession?

Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on March 1, 2014, end on February 28, 2015 and become month to month after that. The tenancy agreement provided that the rent was \$950. It has been increased to \$970 commencing September 1, 2015. The tenants paid a security deposit of \$475 and a pet damage deposit of \$200 on March 1, 2014.

The landlord seeks to end the tenancy based on the following:

- An altercation occurred between the tenants and TP, the manager of the R.V. portion of the rental property when he told them they would have to remove their truck and trailer off of lot that had been rented to them. TP did not attend the hearing. However he provided a written statement in which he states that he rented the lot to the tenants with there agreement they would remove if other campers came. The statement describes how the tenants became very angry and threatened him with a physical assault.
- TP contacted the strata corporation. On June 18, 2015 the strata corporation president sent an e-mail to the landlord stating the landlord's tenants went ballistic and threatened TP with violence. The letter acknowledged there was challenges with the enforcement of the parking bylaw but reiterated threats of violence cannot be tolerated and that the tenant was the landlord's responsibility.

The letter continues stating he would like to see a peaceful resolution and suggests that perhaps the tenants could rent an extra spot from TP and that the trailer needs to be put into storage.

The tenants dispute much of the evidence presented by the landlord. Briefly the tenants testified as follows:

- The tenants acknowledged getting into a dispute with TP. However, they stated he has nothing to do with the rental property or the strata corporation.
- They acknowledge there were heated words. The male tenant stated he was awakened from his sleep when the dispute occurred and he told TP to stop yelling at his wife.
- The female tenant testified the TP approached her with his arms raised and she responded angrily as she has had previous bad experiences with males assaulting her.
- She further testified that she had talked to TP and they have reconciled their differences. TP has apologized to her for the way matters have gotten out of hand and he does not support the tenant's eviction.

- They testified they have attempted to talk to the landlord about this but the landlord refuses to discuss it.
- The police were not called and the tenants have not been charged.

Grounds for Termination:

The Notice to End Tenancy relies on the following grounds:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

Analysis:

The landlord has the burden of proof to establish sufficient cause to end the tenancy on a balance of probabilities. After carefully considering all of the relevant evidence I determined the landlord has failed to establish sufficient cause to end the tenancy for the following reasons:

- TP did not appear at the hearing. It is impossible to determine whether this altercation can be seen as a **significant** interfered with or **unreasonably** disturbed another occupant given the conflict between his written statement and the evidence of the tenant. .
- The tenant's testimony that they have reconciled with TP suggests it is not as serious as alleged by the landlord.
- The police were not called and the tenants have not been charged.
- The letter from the strata corporation does not demand the landlord terminate the tenancy. It states the tenants or the landlord's responsibility and contemplates the tenants renting another parking spot from TP. I cannot conclude from this letter that the strata corporation took this as a matter that warranted the end of the tenancy.
- The landlords did not see the altercation. TP did not testify at the hearing. The testimony of the tenants is such that the dispute does not warrant the end of tenancy.

In conclusion I determined the landlord has failed to establish the conduct of the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord or another

occupant or that it significantly interfered with or unreasonably disturbed another occupant or the landlord. As a result I ordered that the Notice to End Tenancy dated June 21, 2015 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

Landlord's Application::

For the reasons set out above I have cancelled the one month Notice to End Tenancy. As a result I ordered the application of the landlord for an Order for Possession be dismissed.

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: August 20, 2015

Residential Tenancy Branch

