



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Goyal Holdings Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

Tenant's Application filed July 6, 2015: CNC

Landlord's Application filed August 14, 2015: OPC; FF

Introduction

This Hearing dealt with cross Applications. The Tenant seeks to cancel a *One Month Notice to End Tenancy for Cause* issued June 30, 2015 (the Notice). The Landlord seeks an Order of Possession; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

There were no issues identified with respect to service of the Notice of Hearing documents, or exchange of evidence.

Issue to be Decided

- Should the Notice be cancelled or upheld?

Background and Evidence

The Tenant moved into the rental unit in March, 2013. The Landlord took over the tenancy on October 1, 2013. Monthly rent is \$850.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$425.00.

The Landlord's agent gave the following testimony:

The Landlord's agent stated that the Tenant gave his notice to end the tenancy on February 27, 2015, but that the Tenant did not move out because the Tenant's advocates intervened. He testified that the Landlord allowed the Tenant to stay and that the Tenant's rent is paid directly by the Tenant's advocates.

The Landlord's agent stated that the Tenant's behaviour is becoming "intolerable" and that another tenant has moved out because of the Tenant's erratic behaviour. The Landlord's agent testified that most of the tenants in the rental property are afraid of the Tenant. He stated that the Tenant's advocates promised in March, 2015 to try to find alternate accommodation for the Tenant, but nothing has been done. The Landlord's agent stated that the Tenant invites "different kinds" of visitors to the rental property, who leave the front door open. He stated that there have been thefts in the rental property because the building is insecure.

The Landlord's agent testified that he issued the Notice and served the Tenant by posting the Notice to the Tenant's door on June 30, 2015.

The Notice indicates the following reasons for ending the tenancy:

Tenant or a person permitted on the property by 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.

Tenant has engaged in illegal activity that has, or is likely to affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The Tenant's advocates gave the following testimony:

The Tenant has been declared incompetent due to cognitive issues. The Tenant wishes to move out, but there is a shortage of care facilities in the area. The Tenant's advocates are continuing to attempt to secure suitable alternate accommodation for the Tenant.

The Tenant's advocates submitted that the Landlord has failed to prove any of his allegations with respect to the Tenant's, or the Tenant's guests', actions.

Analysis

When a landlord seeks to end a tenancy, **the onus is on the landlord to prove on the balance of probabilities that the tenancy should end for the reasons indicated on the notice to end tenancy.** The landlord must provide its best evidence in support of the Notice. In this case, I find that the Landlord has not provided sufficient evidence to support the Notice. The Landlord did not provide documentation or witness testimony to support the Notice.

For the reasons set out above, I find that the Notice is not a valid notice to end the tenancy and it is cancelled. The tenancy will continue until it is ended in accordance with the provisions of the Act.

Conclusion

The Landlord's Application is dismissed.

The Notice to End Tenancy issued December 10, 2013, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of 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: September 14, 2015

Residential Tenancy Branch

