



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause (the “Notice”).

The Landlord, the Tenant, and the Tenant’s advocate appeared for the hearing. However, only the Tenant and the Landlord provided affirmed testimony during the hearing. The Landlord confirmed receipt of the Tenant’s Application by registered mail and her documentary evidence prior to the hearing. The Landlord confirmed that he had not provided any evidence prior to this hearing and that he was relying solely on his oral evidence to provide the Notice in this hearing.

The Tenant confirmed receipt of the Notice dated August 31, 2015 on the same day by personal service. Therefore, as the Tenant had applied to dispute the Notice on September 3, 2015, I determined that the Tenant had made the Application within the 10 day time limit provided by Section 47(4) of the *Residential Tenancy Act* (the “Act”).

The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the evidence provided.

Preliminary Evidence

The Landlord explained that the Tenant was smoking marijuana in her rental unit and that this was affecting other neighboring residents. The Landlord also stated that the police had been called to the rental unit numerous times to deal with domestic issues the Tenant was having with her partner. The Landlord explained that the Tenant had installed a camera outside her rental unit; however, the Landlord acknowledged that this camera issue had arisen after the Notice had been served to the Tenant and was not the subject of the reasons detailed on the Notice for ending the tenancy.

The Landlord's evidence was short in nature and I asked a number of questions in order to obtain further details including why the Landlord had not presented any supporting evidence to support his oral testimony. The Landlord explained that the residents who had made complaints against the Tenant were only willing to provide evidence anonymously. The Landlord explained that he had requested police file numbers from the police who frequently attended the Tenant's rental unit, but these were not provided.

The Tenant responded by explaining that she was smoking marijuana in the rental unit and this was for medical reasons; the Tenant provided a note from her doctor into evidence to support this claim. The Tenant stated that she had spoken to her neighbors and informed them that if the marijuana smoke bothered them they should let her know so that she would then go elsewhere to smoke it.

The Tenant also testified that she had spoken to the Landlord since the start of this tenancy in January 2015 and explained that if he had any issues with her that he should let her know. The Tenant explained that despite numerous contacts with the Landlord, she never received any verbal or written notice of this breach from the Landlord or the neighbors. Had she been given notice, she would have stopped. The Tenant submitted that since she received the Notice she has not been smoking marijuana in the rental unit as she understands now that it is bother neighboring residents.

The Tenant disputed that there were numerous domestic disputes that had caused a disturbance to the Landlord and other residents. The Tenant testified that there was only one incident where she was involved in a domestic dispute with her partner and the police had to be called. However, this was only one occasion and again the Landlord had not informed her about alleged multiple incidents. The Tenant explained that there have been no further incidents since this one occasion.

Although the Tenant was not asked to respond to the Landlord's claims about the security camera as this was not the reason why the Tenant was given the Notice, the Tenant stated that she was not aware that she had to get the Landlord's permission to install the camera. The Tenant stated that she will work with the Landlord to remedy this issue.

The Landlord acknowledged that he had not provided the Tenant with any breach letter of the alleged disturbances claimed and that since the Tenant was issued the Notice there are not been any further incidents. As a result, the Landlord stated that he was willing to withdraw the Notice. The Tenant agreed to the Landlord withdrawing the Notice, As a result, the Tenant withdrew her Application to cancel it as Notice is now a moot issue. The tenancy will continue until it is ended in accordance with the Act.

However, the Tenant is cautioned that the Landlord is at liberty to issue another notice to end tenancy if the allegations made by the Landlord during this hearing continue. The Landlord is cautioned that he should take steps to put the Tenant on notice of any issues arising in this tenancy so that the Tenant has an opportunity to respond and take any remedial action before a formal notice to end tenancy is served to the Tenant. The Landlord must be prepared to provide sufficient evidence of any notice to end tenancy served to the Tenant in the future if it is disputed.

Conclusion

The parties agreed to withdraw the Notice dated August 31, 2015. Therefore, there was no requirement for me to make any legal findings on the Notice. The Tenant withdrew the Application and the tenancy will continue until it is ended in accordance with the Act. This file is now closed.

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: November 09, 2015

Residential Tenancy Branch

