



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Emergency Aid Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for cause. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on July 03, 2015. Monthly rent is due and payable in advance on the first day of each month. The tenant's share of monthly rent is \$375.00. A security deposit of \$250.00 and a pet damage deposit of \$187.50 were collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated September 07, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. Reasons identified on the notice in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- put the landlord's property at significant risk

The tenant filed an application to dispute the notice on September 08, 2015.

In summary, the tenant's determination not to store his bicycle in the designated bicycle storage area located in the downstairs of the building but, rather, to take his bicycle to his unit, has led to issuance of the 1 month notice. The tenant claims that he has been inconvenienced when he has had to wait for staff to respond to his request to get prompt access to the bicycle storage area which is locked. Further, the tenant takes the position that there is no provision in the tenancy agreement, or in the building rules which were attached to the tenancy agreement when his tenancy began, which precludes him from taking his bicycle to his unit.

The landlord's agent (the "landlord") claims that by taking his bicycle to his unit, the tenant is in breach of the "rules of the building." Further, the landlord argues that if the tenant is permitted to take his bicycle to his unit, then it follows that other residents will wish to do likewise; in the result, the landlord argues that there will eventually be damage to floors and walls, as well as to the elevator.

While there was discussion during the hearing concerning practical solutions that may be found for the different challenges faced by the parties, no resolution was achieved.

Analysis

Section 47 of the Act provides in part, as follows:

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,
 - (iii) put the landlord's property at significant risk;

Clause # 27 of the tenancy agreement speaks to **Building Rules**:

These are written rules that are about the use of services or common areas that the landlord provides for a number of tenants. If the landlord gives the tenant a copy of the Building Rules before signing this Agreement, those rules become part of this Agreement. These rules are attached to this Agreement.

Attached to the tenancy agreement is Schedule “C” – [identifying name deleted] BUILDING RULES (the “Rules”) which are documented as being “Effective May 11, 2012.” There are 13 clauses contained in the Rules, none of which pertain to bicycle storage. It is understood that this version of Schedule “C” is the version that was attached to the tenancy agreement entered into by the parties when this particular tenancy began.

The landlord testified that at some stage the above Schedule “C” was amended. In the result, the document titled, in part, TENANCY BUILDING RULES came into effect. The date of implementation of the amended Rules is unknown. There are 13 clauses contained in the amended Rules, and Clause # 4 of these provides as follows:

4. Keep your suite in good working condition. Maintain cleanliness, report problems to the staff. Such problems include appliances or fixtures that are not working properly, loss of heat or light, leaky faucets, etc. Please hang decorations with small tacks or nails, not tape, and **do not put bikes in the units as they wear down the floors and walls.** [emphasis added]

Section 14 of the Act addresses **Changes to tenancy agreement:**

14(1) A tenancy agreement may not be amended to change or remove a standard term.

(2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

(3) The requirement for agreement under subsection (2) does not apply to any of the following:

(a) a rent increase in accordance with Part 3 of this Act;

(b) a withdrawal of, or a restriction on, a service or facility in accordance with section 27 *[terminating or restricting services or facilities]*;

(c) a term in respect of which a landlord or tenant has obtained an order of the director that the agreement of the other is not required.

Based on the documentary evidence and testimony of the parties, I find there is insufficient evidence that the tenant has breached either the tenancy agreement or the

Rules which were mutually agreed to by the parties when the subject tenancy began. Additionally, I find there is no evidence of a mutual agreement between the parties to amend the tenancy agreement or the Rules. Further, I find that the landlord has failed to meet the burden of proving that the tenant has either “significantly interfered with or unreasonably disturbed another occupant or the landlord,” or that he has “put the landlord’s property at significant risk.” Finally, I have no application or request before me from the landlord.

Conclusion

The landlord’s 1 month notice to end tenancy for cause is hereby set aside.

The tenancy presently continues in full force and effect.

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

