



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

This was a hearing with respect to the landlord's application to cancel a one month Notice to End Tenancy for cause. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlords did not attend the hearing, but they were represented by their agent, who testified on behalf of the landlords.

Preliminary Decision

The tenant requested a repair order and a rent reduction, but he did not submit any particulars of repairs sought and he has not made any written requests to the landlord for repairs prior to filing his application. The tenant's photographs are not adequate notice to the landlord of what are unspecified claims for repairs. The tenant's application for a repair order and a rent reduction are dismissed with leave to reapply.

Issue(s) to be Decided

Should the Notice to End Tenancy dated October 22, 2015 be cancelled?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Surrey. The tenancy began in May, 2015. The monthly rent is \$850.00 and the tenant paid a security deposit of \$425.00 at the start of the tenancy. I was not provided with a copy of a written tenancy agreement.

The landlords served the tenant with a one month Notice to End Tenancy for cause. The Notice was dated October 22, 2015 and required the tenant to move out of the rental unit by November 30, 2015. The stated reasons for seeking to end the tenancy were that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord provided a written submission and documentary evidence in support of her position that the tenancy should end for the reasons stated in the Notice to End Tenancy. The landlord said that she received the rental unit in normal and acceptable condition. She said that she gave him a Notice to End Tenancy for cause because of: "his repeated actions that interfere with the use and proper enjoyment of my property and also disturb my family life." She said that another renter in the premises has complained about the tenant. She submitted a letter from the occupant dated November 15, 2015. In the letter the occupant, Mr. J.S.G. said in part that:

The renter, (name of tenant) has altered significantly the tranquility and normal environment around the house with his aggressive behavior, loud voice, and improper manners. The antisocial events are frequent and evidently are exacerbated when he is under the evident influence of marihuana smoking.

The landlord submitted letters from past tenants who stated their satisfaction with the landlord and the rental unit.

The landlords' agent referred me to a copy of a handwritten note from the female landlord's physician who said that the landlord: "has severe stress and depression related to being around her tenant who causing severe mental distress".

The landlord's agent referred to e-mail and text message exchanges between the tenant and the landlord; he said they showed the hostile and aggressive attitude and behaviour of the tenant towards the landlord. The landlord's agent testified that photographs submitted by the landlord showed the unacceptably messy and cluttered condition of the rental unit and the presence of tools used by the tenant in the rental unit.

The tenant disputed the landlord's claims with respect to grounds for ending the tenancy. The tenant said that the rental unit needed repairs and upkeep when he moved in. He said that it was verbally agreed that the tenant would perform some of the needed work in exchange for payment or a rent reduction, but the landlord did not live up to their commitment; he said that the landlords promised to carry out some needed repairs after they returned from vacation, but they did not follow through and instead began to harass the tenant in order to get him to move.

The tenant said that he is a prescription marijuana user. He never smokes marijuana in or around the rental unit and uses it to treat his chronic medical condition. The tenant testified that he is disabled and the accommodation is essential to preserving his access rights to his daughter. The tenant referred to the landlord's pictures of the rental unit. He denied that the unit is cluttered or untidy. He said the pictures were taken before he had finished sorting and storing his belongings after he moved in.

Analysis

The landlord has complained that the tenant's behaviour has disturbed her and caused her to be stressed and depressed. She did not attend the hearing to provide testimony, nor did the other rental occupant of the property. The tenant has denied that he has acted in a manner that reasonably could constitute grounds to end his tenancy. He said there have been issues with respect to necessary repairs to the rental unit and he has complained about the landlord entering the rental unit without notice and about what he claimed were the landlords' interference with his right to quiet enjoyment of the rental unit, but he said that he has not acted in a manner that was loud or unreasonably disturbing to other occupants of the rental property.

The landlords have alleged that the tenant's behaviour amounts to harassment and constitutes sufficient grounds to end the tenancy. The landlord's did not attend the hearing. All the evidence was presented by the landlord's agent who has no first-hand knowledge of events; his testimony is based solely on hearsay evidence received from the landlords.

The tenant has provided his direct evidence in opposition to the landlords' assertions. I accept and prefer the tenant's direct evidence as to events over the evidence presented by the landlord's agent. I find that the landlords have not established that there are sufficient grounds to end this tenancy. The Notice to End Tenancy for cause dated October 22, 2015 is therefore cancelled. The tenancy will continue until ended in accordance with the *Residential Tenancy Act*.

Conclusion

The tenant's application to cancel the Notice to End Tenancy has been granted. The tenant is entitled to recover the \$50.00 filing fee for his application. He may deduct the said sum from a future instalment of rent due to the landlord.

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: December 18, 2015

Residential Tenancy Branch

