



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 in response to an application by the Tenant pursuant to section 47 of the *Residential Tenancy Act* (the "Act") for an Order cancelling a notice to end tenancy.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy of a room in a unit shared with other tenants started in December 2014 and the Landlord purchased the unit in May 2016. The Parties signed a new tenancy agreement when the Landlord took over the tenancy. Rent of \$800.00 is payable on the first day of each month. On July 30, 2016 an incident occurred between the Tenant's guest and another tenant in the unit. On August 4, 2016 the Landlord served the Tenant in person with a once month notice to end tenancy for cause (the "Notice"). The reason indicated on the Notice is that 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; or
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

The guest has since been charged with assault and restrained from being at the unit. The guest has not been at the unit since the incident.

The Landlord states that the other tenant also called the Landlord repeatedly on August 2, 2016 complaining that he could not enter the unit because of the Tenant. The Landlord states that this tenant had been given two sets of keys to the unit. The Landlord states that one set of keys did not work and the tenant had left the other set in the unit. The Landlord states that because the tenant was so afraid of the Tenant that the Landlord had to pay for him to stay at a hotel temporarily. The Landlord states that as a result of the incident on July 30, 2016 the other tenant then moved out of the unit at the end of August 2016. The Landlord states that she also wants the tenancy to end as the Landlord does not feel safe because the Tenant always argues with the Landlord and that the Tenant always has guests without the Landlord knowing who they are.

The Tenant states that no assault occurred and that the other tenant is lying. The Tenant states that the guest will be pleading not guilty to the charge. The Tenant states that she and the other tenant did not get along as a result but that the Tenant otherwise had nothing to do with the tenant and did nothing to lock the tenant out. The Tenant states that she was away from the unit from August 6 to the end of August 2016 and that a third party stayed in the unit to take care of the Tenant's pets and plants. The Tenant states that the other tenant had told the Landlord on August 4, 2016 that he was going to move out and he did move out before the Tenant returned.

Analysis

Section 47(1) provides that a landlord may end a tenancy by giving notice to end the tenancy if, inter alia, 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; or
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

I do not consider general arguments with a landlord or having guests in a rental unit to be evidence of an unreasonable disturbance. Given that the other tenant had his own set of keys I do not consider the Landlord's evidence of the other tenant not being able to get into the unit to be anything to do with the Tenant. While I accept on a balance of probabilities, given the evidence of the criminal charge, that the other tenant was assaulted on one occasion by the Tenant's guest, given that there is no evidence of any further disruption between the Tenant or the guest and the other tenant I find that the Landlord has not substantiated the reasons indicated on the Notice. I find that the Tenant is therefore entitled to a cancellation of the Notice and the tenancy continues.

Conclusion

The Notice is cancelled and of no 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: September 26, 2016

Residential Tenancy Branch