



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, RR, RP

Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside, an order to have the landlord make repairs to the unit, site or property, an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided and an order to recover the filing fee for this application. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Preliminary Issue

RTB Rule of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so; the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.

I advised both parties that the central issue at this hearing was whether this tenancy was continuing. The remaining portions of the tenant's Application are unrelated to the Application to cancel the 1 Month Notice. At the conclusion of this hearing, I advised both parties that the remaining portions of the tenant's Application were dismissed with leave to reapply. Both parties indicated that they understood.

Issues to be Decided

Is the tenant entitled to have the notice to end tenancy set aside?

Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about May 1, 2016. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$425.00. The landlord stated that the tenant was given a One Month Notice to End Tenancy for Cause on August 12, 2016 by posting the notice on the door. The landlord stated that one of the reasons that the notice was issued was because the tenant continually barbequed on his deck using wood and briquettes, but that issue has been resolved.

The landlord stated that the remaining issue and the most troubling to the landlord is the ground on which they issued the notice to end tenancy on: *Tenant has allowed an unreasonable number of occupants in the unit\suite*. The landlord stated that there are usually seven people in the unit playing dominos and making noise to all hours of the night. The landlord stated that the tenant has been verbally warned on several occasions and was given one written warning as well. The landlord stated he has also received two written complaints from other tenants.

The tenant gave the following testimony. The tenant stated that the only issue was the barbeque which has been resolved. The tenant stated that he has friends come over for dinner and they play dominos but that they do not disturb anyone. The tenant stated that his friends always leave by 11 p.m. and that the landlords are very difficult people to deal with. The tenant stated that he has submitted numerous letters from other tenants to illustrate the abusive and aggressive behaviour that the landlords exhibit in running the building.

The tenant stated that he follows the rules and that he wishes to stay.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of my findings are set out below.

When a landlord issues s notice to end tenancy under Section 47 of the Act they bear the responsibility in providing sufficient evidence to support the issuance of that notice. The landlord has submitted two letters of complaints that he alleges are from other tenants. These letters are undated and without any detailed information as to whom they are sent from, i.e. suite number or contact phone number. Neither of these parties called into the hearing as witnesses so I give these letters very limited weight. In addition, much of the dialogue during the hearing was in regards to the tenant barbequing, and to which both parties agreed that has been resolved.

Based on the above and on the insufficient evidence before me, the landlord has failed to satisfy me that this tenancy should end. I hereby set aside the One Month Notice to End Tenancy for Cause dated August 12, 2016. It is of no effect or force.

As the tenant was only partially successful in this application they must bear the cost of the filing fee.

Conclusion

The notice to end tenancy is set aside. The tenancy continues.

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 12, 2016

Residential Tenancy Branch