



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, FF

Introduction

On September 2, 2016, the Tenants submitted an Application for Dispute Resolution asking for more time to make an application to dispute a Notice to end tenancy; to cancel 1 Month Notice to End Tenancy for Cause dated August 25, 2016, (“the 1 Month Notice”); and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me. Both parties conformed that they had received each other’s evidence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Issues

The Tenants applied for more time to dispute a notice to end tenancy; however I find that their Application to dispute the 1 Month Notice dated August 25, 2016 was made within the required timeframe. The Tenants request for more time to dispute a Notice to end tenancy is not required.

At 9:21 a.m. the Tenant suddenly disconnected from the hearing. At 9:24 a.m. the Tenant called back into the hearing. The Landlord did not provide any testimony during the period of time the Tenants left the hearing.

Issues to be Decided

- Does the Landlord have cause to end the tenancy?
- Should the May Notice be cancelled?

Background and Evidence

Both parties testified that the tenancy commenced on April 1, 2013, as a month to month tenancy. Current rent in the amount of \$1,504.00 is due on the first day of each month. The Tenants paid the Landlord a security deposit of \$716.25 and a pet deposit of \$300.00. The Landlord testified that there is no written tenancy agreement.

The Landlord testified that he is concerned with the upkeep of the rental property. He testified that the yard is full of stuff and the basement is full of stuff, which presents a fire hazard. He testified that the Tenants are growing marijuana on the property and the Tenant's cats and dog are urinating on the carpet.

The Landlord testified that he sent letters to the Tenants asking them to comply with removing junk and debris from the property and the basement, and also asked them to remove marijuana plants from the property. The Landlord stated that two of the letters given to the Tenants, asked the Tenants to get rid of their marijuana plants. The Landlord submitted that the Tenants had 30 marijuana plants in 2015, and now the Tenants have approximately 50 marijuana plants. The Landlord provided copies of two of the letters he sent to the Tenants.

The Landlord testified that the Tenants did not comply with his requests to clean and maintain the property, and remove the marijuana plants, so he issued a 1 Month Notice To End Tenancy For Cause dated August 25, 2016.

The Landlord provided a copy of the 1 Month Notice that was issued to the Tenants. The 1 Month Notice provides the following reasons for ending the tenancy:

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

- Put the Landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- Damage the Landlord's property

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so

The 1 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after

receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. The Tenants disputed the 1 Month Notice within the required timeframe.

The Landlord has provided color photographs showing the interior and exterior of the rental property to support his testimony that the property is not being properly maintained. The Landlord testified that the photographs were taken on August 25, 2016, the same date that he issued the 1 Month Notice.

The Landlord testified that he never gave permission to the Tenants to grow marijuana on the property. He testified that he first noticed the Tenant growing marijuana plants about two years prior and he asked the Tenant to remove the plants and issued the Tenant a letter. The Landlord provided color photographs showing marijuana plants in the yard of the rental property.

In response, the Tenants testified that they have a lot of stuff. They state that they moved the contents of two houses into one house. They submitted that the items they have are not junk and are not damaging the rental property. The Tenants testified that the Landlord doesn't feel they are clean enough and acts like he is their father.

The Tenants submitted that they received the August 16, 2016, breach letter from the Landlord. The Tenants testified that the photographs of the yard and house accurately show the state of the house and yard on August 25, 2016. They submitted that they have cleaned the yard and tidied up the property, and that the property currently does not look like it did in the photos provided by the Landlord.

The Tenant F.P. testified that the Landlord was aware that he grows marijuana plants and told him a couple plants is fine.

The Tenant F.P. testified that currently there are no marijuana plants on the property because he complied with the Landlord's request within a couple of days of receiving the Landlord's letter dated August 16, 2016. The Tenant testified that there are not as many marijuana plants as the Landlord indicates.

In response to the Tenant's testimony that the Tenant removed the marijuana plants within a couple of days of receiving the Landlord's letter dated August 16, 2016, the Landlord testified that the marijuana plants were still there when he took the photographs on August 25, 2016, and the plants were still there when he went to the property on October 13, 2016, to issue the Tenants another Notice.

The Tenant F.P changed his testimony and said that the marijuana plants were gone before the roofers came on August 28 or 29th.

In response to the Landlord's testimony that the Tenant was asked to remove the marijuana plants two years earlier, the Tenant F.P. testified that he did receive a letter from the Landlord two years prior and he complied with the letter by removing marijuana plants at that time.

The Landlord stated if the Tenants are not successful in cancelling the 1 Month Notice he wants an order of possession. The Landlord agreed to give the Tenants more time to move out of the rental unit. The Landlord stated he would give the Tenants until November 30, 2016, to move out.

Analysis

Based on the evidence and testimony before me, I make the following findings:

The photographs of the yard and garden provided by the Landlord show numerous large marijuana plants. Despite removing marijuana plants in 2015, the Tenant grew more marijuana plants in 2016. The Tenant received a letter asking him to have the plants removed in 8 days, but the Tenant did not comply within 8 days. The photographs show the plants were still there on August 25th. The Landlord indicates the plants were still there on October 13, 2016.

Based on the Landlord's testimony and the photographic evidence provided by the Landlord, I find that the Tenants were growing numerous large marijuana plants on the property. Growing marijuana plants in your yard is not legal. I find that growing numerous large marijuana plants presents a significant risk to the Landlord's property. Growing marijuana can attract a criminal element to the Landlords property, and can affect the insurability of the Landlord's property.

I find that the Tenants put the Landlord's property at significant risk. Since I find that the Landlord has sufficient cause to end the tenancy for the first reason within the 1 Month Notice, it is not necessary to address the other two reasons.

I dismiss the Tenant's Application to cancel the 1 Month Notice dated August 25, 2016.

Under section 55 of the Act, when a Tenants application to cancel a notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the

requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the Landlord's 1 month Notice complies with requirements of form and content. In the event that the Tenant's application was dismissed, the Landlord agreed to give the Tenants additional time to move out. The Landlord stated he would give the Tenants until November 30, 2016.

I find that the Landlord is entitled to an order of possession effective at 1:00 pm on November 30, 2016, after service on the Tenant. Should the Tenants fail to comply with the order, the order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenants were not successful with their application, I dismiss their claim to recover the fee for the Application.

Conclusion

The Tenant's Application to cancel the 1 Month Notice To End Tenancy For Cause dated August 25, 2016, is dismissed.

I grant the Landlord an order of possession effective at 1:00 pm on November 30, 2016.

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 02, 2016

Residential Tenancy Branch