



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was scheduled to address the Tenant's application to cancel a 1 Month Notice to End Tenancy issued for Cause; and to recover the cost of the Application.

The matter was set for a conference call hearing. 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. The Parties confirmed they 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.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be upheld or cancelled?

Background and Evidence

The Landlord and Tenant agree that the tenancy commenced on December 1, 2015, as a fixed term tenancy that continues until November 30, 2016. Rent in the amount of \$1,550.00 is to be paid each month to the Landlord. The Tenant paid the Landlord a security deposit in the amount of \$775.00. The Landlord and Tenant provided a copy of the tenancy agreement. The tenancy agreement contains terms restricting pets; smoking; sublets; conduct; and storage.

The Landlord testified that almost immediately after the Tenant moved in to the unit, the Tenant was in breach of a number of conditions of the tenancy. The Landlord testified that the Landlord issued seven breach letters to the Tenant.

The Landlord testified that other occupants were complaining about the Tenant and that one complaint involved an illegal sublet as the Tenant rented out his unit to a person for \$60.00 per night as an Air bed and breakfast rental.

The Landlord testified that because of all the issues with the Tenant's breaches and the issue of the illegal sublet the Landlord no longer considers the Tenant to be a good fit as a Tenant and he issued the 1 Month Notice to End tenancy.

The Landlord testified that the Tenant contacted him after the 1 month Notice was issued and apologized and offered to pay more rent if he could stay, but the Landlord does not wish to continue the tenancy.

The Landlord testified that he intends to rent the unit out at the same amount of rent as the Tenant is paying.

The Landlord provided documentary evidence of complaints received regarding the Tenants and breach letters that were issued to the Tenants. The evidence is summarized as follows:

January 8, 2016	Breach of tenancy agreement regarding parking and storage
March 17, 2016	Breach of tenancy agreement regarding parking and storage
March 27, 2016	Noise complaint
March 29, 2016	Breach of tenancy agreement regarding smoking and noise
April 14, 2016	Breach of tenancy agreement regarding garbage
May 25, 2016	Breach of tenancy agreement regarding parking and storage
July 5, 2016	Breach of tenancy agreement regarding pets in the unit
August 12, 2016	Breach of tenancy agreement regarding garbage
September 6, 2016	Complaint received regarding smoking
September 18, 2016	Complain received regarding parking and noise
September 21, 2016	Complaint received regarding illegal sublet

In response the Tenant testified that he has received some notices from the Landlord regarding parking and garbage. The Tenant testified that the Tenants are very respectful to their neighbours and they asked their neighbours to let them know if they can hear noise.

The Tenant testified that he never sublet the rental unit, but did have people over for a couple of days. The Tenant testified that he did not advertise the unit on a bed and breakfast internet site. The Tenant stated that he does have an air bed and breakfast page for his management company.

The Tenant testified that he broke some rules but he tried his best. The Tenant testified that the Landlord does not care very much, and does not deal with issues. The Tenant submits that in the past the Landlord told him to leave the building if he does not like it.

The Tenant acknowledged that the Tenant's sent the Landlord a letter apologizing for all the mess they have caused and for giving them every chance he could. The letter states that the Tenant's now realize that they would do anything to remain in the building. The Tenants ask for another chance and state they will take all the building rules very seriously.

1 Month Notice to End Tenancy for Cause

On September 22, 2016, the Landlord served a 1 Month Notice to End Tenancy for Cause to the Tenant. The Landlord indicated the following reasons for ending the tenancy in the Notice:

- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*
- *Tenant has assigned or sublet the rental unit/ site without the Landlord's written consent*

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 Tenant disputed the Notice on September 30, 2016, within the required timeframe.

With respect to the breach of material terms, the Landlord relies on the terms listed in the tenancy agreement that restrict pets; smoking; sublets; conduct; and storage.

The Tenant disputed the Notice within the applicable timeframe.

Analysis

After considering the oral testimony and documentary evidence of the Landlord and the Tenant, and on a balance of probabilities, I make the following findings:

I find that the Tenant breached multiple terms of the tenancy agreement. I find the Landlord provided the Tenant with written Notice of the breaches and reasonable time to correct the breaches regarding parking and storage, smoking, and noise, but the Tenant continued to breach the terms of the tenancy agreement.

I find that the Landlord has provided sufficient evidence to support ending the tenancy for a breach of a material term of the tenancy agreement.

I dismiss the Tenant's Application to cancel the 1 Month Notice dated September 22, 2016. Since the Tenancy is ending under this cause, there is no need to consider the other issue within the Notice.

Under section 55 of the Act, when a Tenant's 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 am satisfied that the 1 Month Notice complies with the requirements of form and content.

Since the effective date of the 1 Month Notice has passed, I find that the Landlord is entitled to an order of possession effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Landlord has cause to end the tenancy. The Tenant's Application to cancel the 1 Month Notice To End Tenancy For Cause dated September 22, 2016, is dismissed.

I grant the Landlord an order of possession effective two (2) days after service on the Tenant. The Tenant must be served with the order of possession.

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 23, 2016

Residential Tenancy Branch