



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 tenant'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. He was assisted at the hearing by Mr. D.O. who was present to help the tenant communicate because his English is poor. Mr. D.O. is also an occupant of the rental property.

Issue(s) to be Decided

Should the Notice to End Tenancy dated December 21, 2016 be cancelled?

Background and Evidence

The rental unit is a house in Surrey. The tenancy began on September 25, 2016 on a month to month basis with rent in the amount of \$1,300.00 payable on the 25th day of each month. The tenant paid a security deposit of \$600.00 at the start of the tenancy. The landlord testified that the house was rented to the tenant and it was intended that it be occupied by the tenant and his girlfriend as well as two men who are apprentices and work in the same trade as the tenant. The house has three bedrooms and an unfinished basement.

The landlord testified that he personally served the tenant with a one month Notice to End Tenancy dated December 21, 2016. The Notice to End Tenancy requires the tenant to move out of the rental unit by January 25, 2017. The landlord cited several reasons in the Notice to End Tenancy for ending the tenancy. He said the tenant has allowed an unreasonable number of occupants in the unit; he has put the landlord's property at significant risk; he has assigned or sublet the unit without written consent and has given false information to a prospective tenant or purchaser.

The landlord testified that since the tenant moved into the rental unit he has received numerous complaints from neighbours who live near the rental unit. They have complained about the volume of people coming and going from the rental property at all hours. They have reported that there are sex workers operating out of the rental unit and that the police regularly attend the property to respond to complaints and disturbances. Neighbours have reported to the landlord that the tenants or other

occupants often keep the curtains or blinds open at night and they have witnessed obscene sexual acts being performed inside the rental unit.

The landlord testified that the tenant has rented out rooms in the rental property without permission and the unfinished basement of the rental property which is not supposed to be occupied has been rented out. The landlord submitted a copy of an order that he received from the City of Surrey Fire Service dated December 08, 2016 directing him to perform work to the rental property, provide fire extinguishers, install smoke alarms and emergency lighting and make other modifications because the basement of the rental property is being occupied.

At the hearing Mr. D.O. testified that he is living in the basement and rents a room from the tenant. He said that he filled out an: "intent to rent form" and his rent is paid to the tenant out of his benefits from the Ministry of Social Development. D.O. denied that there are an excessive number of occupants or that there are sex workers living in the rental unit. He said that the occupants of the rental unit are very social people and they have many visitors. He testified that the police have attended at the house several times, but he testified that this was because one of the occupants suffers from paranoia and the police have been called when he has become disturbed.

The tenant said that he does not want to move from the rental unit, but he has not paid rent for January because he does not want to pay rent if he is going to be evicted. According to the tenant and Mr. D. O. there are five people living in the rental unit. The tenant's girlfriend does not live in the rental unit although she is a frequent visitor.

The landlord said that the tenant is subletting without permission; he is renting the basement which is not suitable or intended for occupancy. The landlord said there several grounds to end the tenancy and he requested that the tenant's application be dismissed and an order of possession granted.

Analysis

The rental unit is a three bedroom house. The persons occupying the house include persons not contemplated when the landlord agreed to rent to the tenant. I accept the landlord's testimony as well as the letter from the City of Surrey and the testimony of Mr. D.O. which confirms that the tenant has rented out the basement of the rental property which was never intended to be occupied or rented. I accept the landlord's testimony that there have been a number of police attendances and that there are excessive numbers of visitors to the house and, based on the landlord's testimony about the complaints he has received, it is probably being used by sex workers who are disturbing other nearby residents. I find that the tenant has sublet the property without the landlord's consent, written or otherwise, and that the tenant or persons permitted on the property by the tenant have put the landlord's property at significant risk. The landlord has received order from the City to perform work because of persons living in the

unfinished basement. The City's letter establishes that their occupancy creates a fire risk and the City has issued directions to reduce that risk.

I find that there are ample grounds to support the one month Notice to End Tenancy for cause given by the landlord and the tenant's application to cancel the Notice to End Tenancy is therefore dismissed without leave to reapply.

Section 55 of the *Residential Tenancy Act* provides that:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Notice to End Tenancy given by the landlord was in the proper form and complies with the requirements of the *Act*. The effective date of the Notice to End Tenancy is January 25, 2017 and I grant the landlord an order of possession effective that day. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The tenant's application has been dismissed without leave to reapply and the landlord has been granted an 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: January 20, 2017

Residential Tenancy Branch