



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord confirmed that they received the tenants' documentary evidence. The landlord did not submit any documentation for this hearing.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about July 1, 2012. Rent in the amount of \$643.00 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 \$312.50.

The landlord issued a One Month Notice to End Tenancy for Cause on January 18, 2017 for an incident that occurred on January 17, 2017. The landlord testified that the tenants were involved in a kidnapping and that the police were required to attend. The landlord testified that tenants in the building were apprehensive about the situation and told her as much. The landlord issued the notice on the following grounds:

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

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

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

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*

The landlord testified that she is seeking an order of possession.

The tenant gave the following testimony. The tenant testified that there was no kidnapping and it is “100% fabrication”. The tenant testified that there was no proof and that there is no evidence to support the landlords’ allegations.

Analysis

When a landlord issues a notice under Section 47 of the Act, they bear the responsibility of providing sufficient evidence to support the issuance of that notice. The landlord did not submit any documentary evidence for this hearing. The tenant adamantly denied the landlords’ allegations.

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the landlord must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. Based on the insufficient evidence before me, the landlord has failed to satisfy me that the tenancy must end on any of the grounds as noted on the notice. The tenant has been successful in their application.

Conclusion

The One Month Notice to End Tenancy for Cause dated January 18, 2017 is set aside. It is of no force or effect. 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: March 15, 2017

Residential Tenancy Branch