



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Broadway Maples Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for cause.

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not to cancel or uphold a Notice to End Tenancy that was given for cause.

Background and Evidence

The landlords testified that on March 28, 2017 a one-month Notice to End Tenancy was posted on the tenant's door listing the following reason for ending the tenancy:

- Tenant or person permitted on the property by 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.

The landlords testified that they suspect that the tenant is dealing drugs as the tenant is frequently meeting people, in vehicles, and exchanges are being made.

The landlord further testified that the tenant is in and out of the building at least 15 times a day, and he has personally witnessed money being exchanged for some kind of items.

The landlord further testified that, after the meeting has concluded, he has confronted some of the people that the tenant has met, and they cannot even accurately state which apartment the tenant is living in, and one person in particular shows the signs of crack use, such as a very pockmarked face.

The landlord further testified that, when the tenant observes him watching them, she quickly takes off.

The landlord further testified that, the tenant goes to great lengths to meet the parties off of the rental property, such as in the church parking lot across from the property, or on the street.

The landlord further testified that, he has experience in private security and law enforcement, and it is his opinion that these actions indicate that the tenant is most likely purchasing or selling drugs.

In response to the landlord's testimony, the tenant testified that if she is not dealing in drugs, and although she admits that she does frequently meet other people it is not for illegal purposes.

The tenant testified that the person the landlord describes with the pock marked face does not do drugs, and she had recently purchased a futon from him and he had forgotten to provide some of the bolts, and that is what was exchanged when she met him.

The tenant further testified that she meets people at times to get cigarettes, to exchange keys, and other items, but none of this is illegal.

The tenant is therefore requesting that this Notice to End Tenancy be canceled.

In response to the tenant's testimony, the landlord further reiterated that, the fact that vehicles and people frequently meet the tenant off the property indicates to him that some kind of illegal activity is taking place and he believes that it is most likely drug dealing.

Analysis

As stated above, the landlord has served the tenant with the Notice to End Tenancy which alleges that the tenant is engaged in illegal activity.

The term "illegal activity" would include a serious violation of federal, provincial, or municipal law, whether or not it is an offense under the Criminal Code. It may include an

act prohibited by any statute or bylaw which is serious enough to have a harmful impact on the landlord, the landlord's property, or other occupants of the residential property.

The party alleging the illegal activity has the burden of proving that the activity was illegal; however in this case it is my finding that the landlords have not met the burden of proving that the tenant is engaged in illegal activity.

The landlord has testified that the numerous, short exchanges between the tenant and the people meeting her in cars, makes him suspect drug deals are taking place; however a tenancy cannot be ended for suspected illegal activity, there must be proven illegal activity and in this case there is no such proof.

It is my decision therefore that this Notice to End Tenancy will be canceled and the tenancy will continue.

Conclusion

The one-month Notice to End Tenancy dated March 28, 2017 is hereby canceled and this 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: May 11, 2017

Residential Tenancy Branch