



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on May 21, 2017.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on May 1, 2017. Rent in the amount of \$575.00 was payable on the first of each month.

.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on June 30, 2017.

The reason stated in the Notice was that the tenants have:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- Tenant or a person permitted on the property by the 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 landlord testified on May 12, 2017, they purchased the property and when they were introduced themselves to the occupants of the building they were informed by 4 or 5 occupants that they were concerned with the large volume of traffic attending the tenant's rental unit, which they believe is associated with drug trafficking.

The landlord testified in the early morning of May 15, 2017, fifteen days after the tenancy started; there was a young woman that had overdosed with illicit drugs in the tenant's rental unit. This significantly disturbed other occupants of the building as there was screaming, yelling and other occupants attended to provide CRP to the girl.

The landlord testified that later in the day they spoke with the male tenant, who indicated that they are not responsible for the action of their guests. The landlord stated that due to male tenant's response they decided to end the tenancy and served the Notice.

The landlord testified that after they served the tenant with the Notice, the tenant posted a letter to their door, which reads.

"Attention! Before you knock, as yourself.... "DID YOU CALL FIRST?" if you did not ... Please pause to decided, what caliber of weapon with which "you" prefer to be shot with?"

[Reproduced as written]

The landlord testified that since the Notice was issued the traffic to the tenants' rental unit has been consistent with drug trafficking and the tenants' guests urinate and leave feces on the property. The landlord stated the police have attended on 4 occasions and they have received daily complaints from other occupants.

The female tenant indicated they do not live at the rental unit as they co-signed for their son.

The male tenant testified that they are not responsible for the actions of their guests. The tenant stated that they went to have a shower and heard screaming only to

discover their guest had overdosed on drugs. The male tenant stated that they had no idea this person had drugs on them.

The male tenant testified that they did post the letter on their door, but was not meant for the landlord.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenants have:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- Tenant or a person permitted on the property by the 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.

In this case, the tenancy commenced on May 1, 2017; by May 12, 2017, the landlord had already received complaints from 4 or 5 other occupants that the traffic going to the tenants unit appeared to be drug related.

On May 15, 2017, the tenants' guest overdosed on drugs, causing a significant disturbance to the other occupants, yelling and screaming was heard throughout the building; other occupants conducted CPR in the attempt to keep the girl alive. I do not accept the evidence of the male tenant that they were not aware that their guest had drugs or was using drugs when they were in the shower. I find this was an unreasonable disturbance and could have been avoided if illicit drugs were used.

Further, I find it troubling that after this drug related incident which I found caused an unreasonable disturbance, that the male tenant would then post a letter to the rental unit door that can be seen by all the other occupants. The letter is threatening in nature and indicates you could be shot.

Furthermore, since the Notice was issued the tenancy is still problematic, the police have attended on 4 occasion and complaints from other renters continue to be made.

Based on the above, I find the Notice issued on May 21, 2017, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenants' application to the Notice.

As the tenancy legally ended on June 30, 2017, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order must be served on the tenants and may be filed in the Supreme Court.

Conclusion

The tenants' application to cancel the Notice, issued on May 21, 2017, is dismissed.

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: July 18, 2017

Residential Tenancy Branch