



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 under the *Residential Tenancy Act* (the "Act"), to cancel a 1 Month Notice to End Tenancy for Cause dated May 11, 2017 (the "1 Month Notice").

Both the tenant and the landlord attended the hearing. Both parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Service of the tenant's application and notice of hearing was not at issue.

Issues to be Decided

Should the 1 Month Notice be cancelled?

Background and Evidence

This tenancy began approximately five years ago. No written agreement was in evidence. Rent in the amount of \$850.00 payable on the first of each month. The tenant paid a security deposit at the beginning of the tenancy and that deposit remains in the landlord's possession.

The 1 Month Notice was served on the tenant on May 11, 2017. It indicates that the tenant must vacate the rental unit on June 30, 2017. Although the second page of the 1 Month Notice was not in evidence, both parties confirmed that the tenant had received the second page. The landlord's primary allegation appears that the tenant has engaged in illegal activity in breach of s. 47(1)(e) of the Act.

The landlord submitted only one letter in support of the cause alleged. It is undated, and written by AF, who identifies herself as an RCMP officer and as living in the building adjacent to the tenant. She says that she has on "numerous occasions" noted what she believes to be drug trafficking behaviour and that after she raised her concerns with

another tenant, they set up a covert camera and noted that the tenant would often leave the door open with a piece of wood. AF further states that it "is uncertain if [the tenant] is involved" in break-ins that occurred around this time, but that AF's concern "is for the many elderly owners in the building as this actions compromises all our safety." AF also stated that she approached the tenant once to caution her. AF alleges that the tenant's behavior "is not conducive to safe living as she regularly brings in transient friends and leaves the building insecure for her friends so they can travel freely in an out." It concludes by recounting that approximately two months ago she observed a young man who appeared to be high exit the tenant's building and when AF asked him where he had come from he pointed out the tenant's suite. The young male then insisted that he enter the building where AF lives, as he had friends there. AF identified the residents of the unit as drug users and traffickers.

The landlord stated that AF was supposed to have attended the hearing as a witness but cancelled at the last minute. The landlord did not submit the recording referenced in AF's letter.

The tenant in response denied AF's allegations. She testified that AF did not approach her on the occasion set out in AF's letter but approached her on another occasion to apologize for having over-reacted to something. The tenant further testified that the young male referenced in AF's statement was visiting another suite close to hers, and that she has not been able to contact him as he is not a resident of the building.

Analysis

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

The landlord's only evidence was the statement of AF, consisting of very general allegations. It is not clear what AF means by "drug trafficking behavior," and there is certainly no evidence that the tenant has been charged with or convicted of any crime, although AF, who is apparently a police officer, has been observing her. AF says only that the tenant has on an unspecified number of occasions blocked the door open with a piece of wood.

There is insufficient evidence that any of the tenant's conduct has or is likely to adversely affect the landlord's property or another occupant. Here I note that although

AF complains that the young male appears to have come from the tenant's unit, AF subsequently allowed the young male to enter own building immediately thereafter.

In conclusion, the landlord has not offered sufficient evidence to uphold the 1 Month Notice. Accordingly, I allow the tenant's application to cancel the 1 Month Notice.

Settlement

Over the course of the hearing it became clear that both parties wished to end the tenancy. I advised the parties of their option to have me assist in mediating an agreement with respect to this tenancy. I further advised that any agreement would be documented in my decision pursuant to section 63 of the Act. The parties understood that settling upon an end of tenancy date was voluntary, and agreed that the tenancy will end at **1:00 p.m. on October 31, 2017.**

Conclusion

The tenant's application to cancel the 1 Month Notice is granted.

The landlord and the tenant have together agreed that the tenancy will end at 1:00 p.m. on October 31, 2017.

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 07, 2017

Residential Tenancy Branch