



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EUROSPORT ENTERPRISES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OPC

Introduction:

Only the tenant attended the hearing and gave sworn testimony. I find that the Notice to End a Residential Tenancy dated August 8, 2017 to be effective September 30, 2017 was served personally. The tenant gave evidence that he served the application for dispute resolution personally on the husband of the owner as he came to pick it up. The tenant applies to cancel a Notice to End the Tenancy for cause pursuant to section 47 of the *Residential Tenancy Act* (the Act).

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Only the tenant attended although the landlord was served with the Application/Notice of Hearing. The tenant was given opportunity to be heard, to provide evidence and to make submissions. He said he has a disability and was nervous but was able to provide his evidence in a clear, forthright manner. He said his tenancy began about two years ago; rent is currently \$825 a month and he paid a pet and security deposit totalling \$800. He said he and the landlord have a cordial relationship.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

The tenant or a person permitted on the property by the tenant

- a) (i) has significantly interfered with or unreasonably disturbed another occupant or the landlord;
(ii) seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
(iii) put the landlord's property at significant risk
- b) The tenant or a person permitted on the property has engaged in illegal activity that has or is likely to
(iv) damage the landlord's property;

- (v) adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord and that:
- (vii) jeopardizes a lawful right or interest of another occupant or the landlord.

(c) The tenant or a person permitted on the property by the tenant has done extraordinary damage to the unit; and

(d) The tenant has assigned or sublet the unit without the landlord's written consent.

The tenant provided evidence that he had been given a Notice by the landlord on August 8th, 2017 to repair the unit after a bad incident. In sympathy, he took in a woman with her dogs to share the unit, she was using drugs and he had to call the Police. She was angry and broke things including the door. However, he said he immediately fixed the door and any other damaged items. He put a new expensive lock on the unit. He said the landlord was pleased and told him to just cancel this hearing but he attended to protect his interests. He provided photographs and letters as evidence. The landlord's letter stated they were giving him papers to end his tenancy on September 30, 2017 but if he could prove he was abiding by the lease, they would reconsider.

The tenant clarified that the landlord's name is a company and the female landlord named in the application is President.

Analysis:

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes it. I find the tenant's evidence credible that the landlord had told him his tenancy was continued and he could cancel the hearing. I find the weight of the evidence is that he complied with the landlord's demand to fix the damage caused by the female he took in as room mate for a time. I find it was the landlord's intention to continue the tenancy as evidenced by her letter and the fact she told the tenant to cancel the hearing.

As explained to the tenant in the hearing, his arrangement with a room mate was not a sublet. He was always residing in the property himself and just sharing with a room mate. I find he did not breach his lease by subletting. Subletting is explained on the internet as follows:

When a rental property is sublet, the original tenant moves out of the rental property and a new tenant (the subtenant) moves in to take his or her place but the original lease stays in place. Often, the original tenant expects to move back into the unit. For example, students commonly sublet their rental units for the summer from May to August with plans to return in September.

The original tenant is still legally responsible for all of the obligations under the lease and under the Residential Tenancies Act. For example, if the new tenant fails to pay rent, the landlord can collect unpaid rent from the original tenant. The new tenant who sublets is also responsible for the obligations of the lease.

Conclusion

I set aside the Notice to End Tenancy dated August 8, 2017. The tenancy is continued.

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: October 11, 2017

Residential Tenancy Branch