



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Introduction

On November 3, 2017, the Tenant submitted an Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause dated October 26, 2017 ("the 1 Month Notice").

The Landlord and Tenant appeared at the hearing. The Tenant was assisted by an advocate. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord testified that they did not receive the Tenant's documentary evidence until three days before this hearing. The Tenant's documentary evidence consists of handwritten submissions that are difficult to read. The Tenant's documents are excluded from the hearing; however, the Tenant was informed that he may make oral submissions regarding the content of his written submissions.

Issue to be Decided

- Does the Landlord have cause to end the tenancy?

Background and Evidence

Both parties testified that the tenancy commenced in September or October of 2014, as a month to month tenancy. Rent in the amount of \$346.00 is due on the first day of each month. The Tenant resides in a low income facility for seniors, that has six rental units.

The Landlord served a 1 Month Notice To End Tenancy For Cause to the Tenant on October 26, 2017. The Landlord selected the following reason for ending the tenancy in the 1 Month Notice:

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

- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*

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 provided testimony regarding the reasons the 1 Month Notice was issued. The Landlord submitted that they have received several letters from other occupants indicating that the Tenant is being verbally abusive by swearing and threatening. The Landlord submitted that the other occupants are scared of the Tenant.

The Landlord submitted that the Tenant has been involved in arguments with other occupants regarding composting, parking, and garbage clean up on the property.

The Landlord testified that on June 12, 2017, they held a meeting with him to discuss their concerns with his behaviour. The Landlord testified that they did not issue any written warnings or cautions to the Tenant.

The Landlord submitted that the police have attended the property on six occasions due to issues related to the Tenant. The Landlord submitted that the Tenant was involved in an argument with another occupant and was taken away by police on October 23, 2017.

The Landlord provided copies of complaints they received from other occupants. The Landlord provided a number of written complaints received since they met with the Tenant on June 12, 2017. The complaints indicate that the Tenant was name calling, swearing, shouting, and has mood swings.

In response to the Landlord's testimony, the Tenants advocate, Ms. S.L. submitted that the 1 Month Notice was issued on the basis that the Tenant seriously jeopardized the health or safety or a lawful right or interest of the Landlord or another occupant. She

submitted that the Landlord's evidence does not give rise to a situation of serious jeopardy. She submitted that the Landlord's evidence is vague and does not provide context.

The Tenant refuted the versions of events as described within the letters of complaint. He testified that he did swear on a number of occasions but it was only after the other occupants swore at him. He testified that he never said he would harass the occupants and he did not threaten them.

The Tenant submitted that one of the occupants, who is an instigator, is moving out and the tension will be gone.

The Tenant's advocate submitted that the Tenant has a mental illness and the other occupants do not like him. She submitted that he is not attacking other occupants and his behaviour is not egregious.

Analysis

In the matter before me, the Landlord has the onus of proof that there is cause to end the tenancy for the reasons contained within the 1 Month Notice. Based on the evidence and testimony before me, I make the following findings:

While the Tenant has acknowledged that he was involved in arguments and has sworn at other occupants, I find that the behavior of a number of the occupants likely contributed to the disturbances. One complainant admits he was swearing back at the Tenant, and other evidence indicates that a shouting match ensued which indicates to me that the shouting was not one sided.

While I find that the behavior of yelling and swearing is concerning, I find that there is insufficient evidence to establish that the Tenant *seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*.

In addition, the Landlord failed to provide sufficient evidence that 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.

I find that the Landlord has not provided sufficient evidence to support the reasons to end the tenancy; therefore, I cancel the 1 Month Notice To End Tenancy For Cause dated October 26, 2017.

The Tenant's Application is successful. I order the tenancy to continue until ended in accordance with the Act.

Conclusion

The Tenant's Application is successful. The 1 Month Notice To End Tenancy For Cause dated October 26, 2017, is cancelled.

The tenancy will continue until ended in accordance with the Act.

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: January 24, 2018

Residential Tenancy Branch