



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant(s) filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on January 4, 2018 and for a monetary order for money owed or compensation under the Act.

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.

Preliminary and Procedural matters

In this case, the tenant S-V has filed their application on behalf of the tenants; however, I note the style of cause is not properly completed as they list a “Project Z...” as a tenant. I find it appropriate to amend the tenants’ application to list the tenants that are listed in the tenancy agreement.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenants’ request to set aside the Notice to End Tenancy. The balance of the tenants’ application is dismissed, with leave to reapply.

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 sufficient evidence 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.

Issues to be Decided

Should the Notice, be cancelled?

Background and Evidence

The tenancy began on March 1, 2015. Rent in the amount of \$1,700.00 was payable on the first of each month. The tenants paid a security deposit of \$800.00.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on February 28, 2018.

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

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk; and
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
 - jeopardize a lawful right or interest of another occupant or the landlord

The landlord's agent testified that the owner has received complaints for the strata and the concierge of the building that the tenants are renting the property out on as an Air B&B.

The landlord's agent testified that they personally talk to the concierge the neighbors and it was determined that they are staying in the premises nightly, or weekly.

The landlord's agent testified that they personally inspected the rental unit in January 2018, and there were no personal effects that would be expected to be in the premises if the tenants were using it to reside in, such as food or clothing. The agent stated that it what you would expect if it was being rented out as an Air B&B.

The landlord's agent testified that the concierge also received from a potential client a complaint, that they were scammed out of their money as when they attended the premises they were not given the accommodations as arranged.

The landlord's agent testified that they were also informed that someone would meet the potential clients at the local coffee shop to retrieve the keys to the rental unit. The agent

testified that landlord's insurance is at risk and the property is at serious risk as they do not know who is occupying the premises at any given time.

The tenant testified that they are a software company and that they rented the premises to be able to house foreign workers for eight months to two years. The tenant stated that they are currently living in the premises.

The tenant testified that the reason there were no personal effects in the rental unit when the landlord's agent inspected in January 2018, was because they had planned to move on January 1, 2018; however, they changed their minds.

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;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk; and
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
 - jeopardize a lawful right or interest of another occupant or the landlord

I accept the evidence of the landlord's agent over the tenant that they have been using the premises as an Air B&B or for a purpose not intended. I find the tenant's evidence lacking credibility because if it was truly being used to house foreign works for eight months to two years that would be easily provable. The tenants could have provided evidence from a government source as it would be reasonable to expect that a foreign worker and its employer would to have government documentations No such documents were provided. The only evidence the tenant submitted was appears to be scan driver's license, which supports nothing.

I also have reviewed the receipts the tenant has filed as evidence; I find the receipts lead me to believe the tenants are more likely than not falsifying evidence, because each receipt is hand

written, and does not provided the name of the service provider, tax information or any other information that would be reasonably expected.

Further, the tenant has submitted two hand written receipts for litigation fees, I find it highly unlikely that a lawyer would provide such receipts, and there is no office name, legal counsel name or anything to lead me to believe these receipts are genuine.

I find the tenants have put the landlord's property at significant risk by not using the property for its intended use.

I find the Notice issued on January 4, 2018, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenants' application to cancel the Notice. The tenancy will end in accordance with the Act.

As the landlords have accepted occupancy rent for the month of March 2018, I find it appropriate to extend the effective vacancy date in the Notice to March 31, 2018, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Conclusion

The tenants' application to cancel the Notice, issued on January 4, 2018, is dismissed. The landlord is granted an order of possession.

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: March 15, 2018

Residential Tenancy Branch