



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord's agent, in person on February 11, 2018. As both parties have attended and have confirmed receipt of the notice of hearing package, I am sufficiently satisfied that both parties have been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 Month Notice for Cause?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Neither party provided a signed tenancy agreement or any details of the tenancy for the hearing.

Both parties agreed that the landlord's agent (the landlord) served the tenant with the 1 Month Notice dated January 26, 2018 by posting it to the rental unit door. The 1 Month

Notice sets out an effective end of tenancy date of February 28, 2018 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - 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;

No details of cause were listed on the 1 Month Notice dated January 26, 2018.

The landlord claims that the tenant has been verbally abusing, harassing, threatening and filming staff without their consent. The tenant has disputed these claims stating that no abuse or harassment has occurred.

The landlord stated that 3 breach letters dated August 14, 2017, October 27, 2017 and January 19, 2018 were sent to the tenant regarding the tenant's racist, sexist insults to the Indigenous and the female staff members. No specific details were provided for these claims. The landlord claims that the tenant has allowed his guests to harass and threaten staff. No specific details were provided for these claims. The landlord claims that the tenant has refused access to the rental unit to allow the landlord's agents to access, inspect and treat pest(s).

The landlord clarified that an ongoing issue with the tenant's attitude toward staff members as shown by the progressive steps of the three breach letters and his disregard to tenancy rules. The landlord argued that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health, safety or lawful right of another occupant or the landlord. The landlord has submitted in support of these claims a typed log of entries from staff members.

The landlord has submitted in support of these claims:

A typed letter dated April 3, 2018 from a staff member, G.C. that states in part:

The tenant's guest, S. was using abusive language toward staff as the staff had refused access to the tenant's guest without identification being provided.

The tenant had another tenant come down from the building to open a fire door to allow access to the tenant and his guest. The landlord stated that the tenant ignored the landlord's staff's warnings and the buildings safety rules.

The landlord also claims that the tenant threw the guest registry board into the office hitting the staff member. Both parties confirmed that police were not called regarding this issue, nor has the landlord filed any complaints with the police for assault.

The landlord claims that other tenants' were disturbed by the tenant's actions, but that no written complaints have been filed.

The landlord claims that on August 24, 2017 the tenant was interacting with the landlord's staff regarding a guest when he called the front desk work a "Bitch" and then walked away.

The landlord claims that on November 26, 2017 the tenant's guest was "kicked out" for using fake ID" after she had been at the property for a couple of days and was wandering the hallways and knocking on other tenant's doors.

A typed transcription of a log book from June 24, 2017 to March 5, 2018 of the staff interactions with the tenant. The landlord claimed that these interactions show the tenant and his guest(s) disregard for the landlord's safety rules. The log book entries show that the tenant's primary issues are over the landlord's right to impose restrictions on the tenant's guest ability to enter the rental building by registering all guests in the guest registry board with identification. The landlord argued that the tenant and his guests have circumvented the safety precautions. The landlord has primarily referred to an incident on August 8, 2017 in which the tenant's guest was refused access as she did not have identification. The landlord states that this guest used abusive language towards staff when told that identification was required.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, I accept the affirmed testimony of both parties and find that the landlord has failed to provide sufficient evidence for the listed items of cause. Although the landlord has listed many interactions where the tenant or his guest(s) were abusive and yelling at the landlord's staff based upon the landlord's log book, I find that this is insufficient to satisfy me of cause to end the tenancy. As such, the tenant's application is to cancel the 1 Month Notice is granted. The 1 Month Notice dated January 26, 2018 is set aside. The tenancy shall continue.

Conclusion

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

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: April 17, 2018

Residential Tenancy Branch