



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on December 13, 2018.

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.

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 cause sufficient 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 in September 2014. Rent in the amount of \$430.00 was payable on the first of each month.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on January 13, 2019.

The reason stated in the Notice was 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; and
- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The landlord's agent testified that on December 11, 2018, the tenant as well as other occupants were sitting in the common area having coffee.

The landlord's agent testified that the tenant and another occupant were involved in a verbal spat. The agent stated that another occupant walks between the two parties involved in the spat and they were pushed to the floor, breaking the occupants hip. Filed in evidence is a video of the incident.

The landlord's agent testified that there are often disputes between occupants due to the nature of their disabilities; however, they cannot allow incidents of violence to occur as they have a duty to everyone that are occupants to ensure safety.

NC witness for the landlord testified that they are a support worker for another organization that works in the building. NC stated that they were involved with another occupant when they heard raised voices. NC stated that they walked over to the area where the altercation was occurring and they witnessed one of the other occupants getting involved.

NC testified that the occupant was walking with their walker and was surprised when the tenant pushed the occupant to the ground.

The tenant testified that they were having a conversation with one of their friends that lives in the building and another occupant started to interrupt their conversation. The tenant stated that they told this occupant to mind their own business.

The tenant testified that this is when another occupant got involved. The tenant stated that this occupant got into their face and they only pushed the walker. The tenant stated they do not believe their hip was broken.

The tenant testified that this person previously threatened them on an earlier occasion, and they felt this person was a threat. The tenant stated that they have a disability and the landlord has not helped them to deal with their issues.

GG witness for the tenant testified that they did not see the tenant push the occupant.

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 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; and
- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

In this case, I accept the evidence of both parties, that there was a verbal dispute amongst the tenant and the two other occupants in the common area. I find that both the tenant and the occupants play a role in bad behaviour.

However, I find the tenant's action of pushing the other occupant that was using a walker for stability was unreasonable because the tenant could have remained seated or could have simply walked away. Rather, than act in a violent manner causing the occupant to fall and break their hip.

I accept that all occupants in the building have some form of disability; however, any acts of violence cannot be justified.

I find the evidence does support the Notice was issued for the reasons stated. I find the Notice issued on December 13, 2018, has been proven by the landlord and is valid and enforceable.

I dismiss the tenant's application to the Notice issued on December 13, 2018. Therefore, I find the tenancy will legally end in accordance with the Act.

As the tenancy legally ended on the effective date of the Notice, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant.

It appears that the landlord may be willing to work with the tenant in an attempt to continue the tenancy. The tenant is encouraged to work with the landlord in any way necessary, such as counselling, to prevent the order of possession being enforced.

Conclusion

The tenant's application to cancel the Notice, issued on December 13, 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: February 04, 2019

Residential Tenancy Branch