



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on April 11, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a one month notice for cause; and
- an order granting the recovery of the filing fee.

The Tenant as well as the Landlord and the Landlord's Agent, N.C., attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified that he served his Application and documentary evidence package in person to N.C. around April 13, 2019. N.C. confirmed receipt. N.C. testified that he served the Tenant with the Landlord's documentary evidence by attaching it to the Tenant's door on May 16, 2019. The Tenant confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to 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.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice dated April 11, 2019, pursuant to Section 47 of the *Act*?
2. If the Tenant is unsuccessful in cancelling the One Month Notice is the Landlord entitled to an Order of Possession, pursuant to Section 55 of the *Act*?
3. Is the Tenant entitled to the recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified that the tenancy began on June 1, 2012. Currently, the Tenant pays rent in the amount of \$654.00 to the Landlord each month. The Tenant paid a security deposit at the start of the tenancy; however, neither party could confirm the amount the Tenant paid to the Landlord. Neither party submitted a copy of the tenancy agreement.

The Landlord testified that for the past 11 months, the Landlord and N.C. have been contacted by the Tenant on a consistent basis regarding concerns the Tenant has about another occupant playing music loudly. The Landlord stated that the Tenant has called 38 times in the past 11 months and has sent many emails as well. The Landlord stated that they have investigated the Tenant's concerns which were unfounded.

The Landlord stated that they feel as though they have done everything they can to address the Tenants concerns; however, do not feel they have sufficient evidence to proceed with any disciplinary measures. The Landlord and N.C. stated that they feel harassed by the Tenant repeated attempts to contact them and feel threatened as the Tenant is becoming increasingly aggressive in his approach.

For the above mentioned reasons, N.C. stated that he served the Tenant in person with the One Month Notice on April 11, 2019 with an effective vacancy date of May 31, 2019. The Tenant confirmed having received the One Month Notice, but insists he received the notice on April 9, 2019. The Landlord's reasons for ending the tenancy on the One Month Notice are;

The Tenant or a person permitted on the property by the Tenant has significantly

interfered with or unreasonably disturbed another occupant or the Landlord.

The Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health and safety or lawful right of another occupant or the Landlord.

The Tenant has made an Application to cancel the One Month Notice. The Tenant stated that he wasn't aware that he was doing anything wrong by reporting his concerns to the Landlord or N.C. The Tenant stated that he feels as though he is entitled to quiet enjoyment of his rental unit and reports his concerns to the Landlord and N.C. when situation arise that impact him. The Tenant stated that he was under the impression that he was helping the Landlord. Furthermore, the Tenant stated that he was not aware that if he continued to report his concerns to the Landlord that this may impact his tenancy.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a Landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant in person with a One Month Notice to End Tenancy for Cause dated on April 11, 2019 with an effective vacancy date of May 31, 2019. The Tenant confirmed having received the notice. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act.

I accept that the Tenant has been in constant contact with the Landlord and N.C. regarding concerns about loud music from a neighbouring tenant. While the Landlord has established that there is not sufficient evidence to substantiate the Tenant's concerns, I find that it does not prevent the Tenant from reporting further concerns to N.C. or the Landlord.

I find that while the Tenant's repeated attempts at expressing his concerns to the Landlord and N.C. may be unreasonable, I find that the Landlord provided insufficient evidence to demonstrate that the Tenant's communications has significantly interfered with or unreasonably disturbed another occupant or the Landlord, or jeopardized the

health and safety or lawful right of another occupant or the Landlord to the extent that the tenancy should end.

Nevertheless, the Tenant is now warned that communication with Landlord and Agents should be reasonable, respectful, and reserved for genuine matters that require Landlord intervention. Increased incidents of this type or any further escalation, may give the Landlord sufficient cause to end the tenancy.

In light of the above, I cancel the One Month Notice, dated April 11, 2019. I order the tenancy to continue until ended in accordance with the Act.

As the Tenant was successful in his Application, I find that he is entitled to the recovery of the filing fee. I find that the Tenant is permitted to deduct \$100.00 from one (1) future rent payment.

Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated April 11, 2019 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: May 29, 2019

Residential Tenancy Branch