



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

On July 5, 2019, the Tenants submitted an Application for Dispute Resolution under the Residential Tenancy Act ("the Act") looking to cancel a One Month Notice to End Tenancy for Cause dated July 3, 2019 (the One Month Notice).

The matter was set for a conference call hearing. Both parties appeared at the hearing. 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.

Issues to be Decided

- Does the Landlord have sufficient cause to end the tenancy?

Background and Evidence

Both parties testified that the tenancy began in September 2017, and is currently on a month to month basis. Rent in the amount of \$1,100.00 is to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$550.00.

The rental property contains an upper and lower rental suite. The Tenants occupy the upper unit.

The Landlord testified that he served the Tenants a One Month Notice to End Tenancy for Cause.

The reasons for ending the tenancy within the One Month Notice are:

Tenant or a 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

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
- Jeopardize a lawful right or interest of another occupant or the Landlord

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the One Month Notice on July 5, 2019, within the required time period.

The Landlord did not provide any documentary evidence prior to the hearing. The Landlord provided affirmed testimony that he received complaints from the other Tenant on the rental property. The Landlord testified that the downstairs Tenant does not feel safe due to an incident where the upper Tenant made a threat.

The Landlord testified that in February 2019, the downstairs Tenant opened an unlocked door that provides access to the upper unit. The Landlord testified that the upper Tenant then made a threat that next time he would have a bat.

The Landlord testified that in response to the incident he posted a notice on the door for the occupants to not touch the access door and he spoke directly to the upper Tenant about not touching the door.

In reply, the Tenant testified that in February 2019, shortly after the downstairs Tenant moved in; she opened the access door between the units at two o'clock in the morning. The Tenant suggested that he was alarmed and stated that he said next time he would have a bat.

The Tenant testified that the Landlord responded at that time and there was no further issue. The Tenant testified that after a recent discussion with the Landlord where the Landlord mentioned raising the rent, the Landlord issued the One Month Notice.

The Tenant testified that they did not receive any warning letters from the Landlord prior to receiving the One Month Notice.

Analysis

In the matter before me, the Landlord has the onus of proof to prove that there is sufficient reason to end the tenancy. Based on the evidence and testimony before me, I make the following findings:

I find that the incident on February 15, 2019, was relatively minor in nature. I find that the Tenants were awoken at 2:00 am by the sound of someone accessing their rental unit. I find that the Landlord responded to the issue back in February 2019. The Landlord served the One Month Notice almost five months later. If the Landlord was truly concerned about the Tenant's comment in response to the incident, I find that the Landlord should have taken action sooner. Instead the Landlord was engaging in conversations in June or July about increasing the monthly rent.

I find that the Landlord has not provided sufficient evidence to support that there was illegal activity and there is insufficient evidence from the Landlord to establish that the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord and/ or seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

Therefore, I cancel the One Month Notice to End Tenancy for Cause, dated July 3, 2019.

I order the tenancy to continue until ended in accordance with the Act.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. I authorize the Tenants to withhold the amount of \$100.00 from one (1) future rent payment.

Conclusion

I find that the incident on February 15, 2019, was relatively minor in nature and that the Landlord dealt with the issue at the time of the incident.

I find that the Landlord has not provided sufficient evidence to support that there was illegal activity; and there is insufficient evidence to establish that the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord and/ or seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

The Tenant's application is successful. The One Month Notice issued by the Landlord dated July 3, 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: September 04, 2019

Residential Tenancy Branch