



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On October 17, 2019, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a One Month Notice to End Tenancy for Cause dated October 16, 2019 (“the One Month Notice”).

The Landlord and Tenant 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.

Issue to be Decided

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

Background and Evidence

Both parties testified that the tenancy began on January 10, 2018, on a month to month basis. Rent in the amount of \$1,200.00 is due by the first day of each month. The Tenants paid the Landlord a security deposit of \$600.00.

The Landlord served the One Month Notice to the Tenant in person on October 17, 2019. The Notice has an effective date (the date the Tenant must move out) of November 30, 2019.

The Landlord selected the following reasons for ending the tenancy within the One Month Notice:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the Tenant has:

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*

The One Month 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 Tenants disputed the one Month Notice on October 17, 2019 within the required time frame.

Repeated Late Payment of Rent

The Landlord provided testimony that the Tenants were late paying the rent on three occasions (February, April and August). The Landlord testified that the Tenants split the rent and each pay the Landlord their half separately. The Tenant Mr. J.T. pays the rent by government cheque and the other Tenant Mr. M.W. pays the rent to the Landlord in cash.

The Landlord testified that there was an issue regarding the payment of August 2019 rent. The Tenant testified that the August rent was put under the Landlord's door on July 26, 2019. The Landlord testified that he never received the August rent.

Both parties participated in a dispute resolution hearing regarding unpaid August 2019 rent and reached a settlement agreement on October 29, 2019. The parties agreed that the Landlord could retain \$300.00 from the security deposit towards unpaid rent.

Significantly Interference or Unreasonable Disturbance

The Landlord testified that on October 11, 2019 the Tenants authored a letter and distributed to the other occupants of the 24-unit rental property. The Landlord testified that the letter indicates that the Landlord is forgetful and is upsetting and amounts to defamation of character and psychological intimidation. The Landlord testified that the

Landlord received phone calls of complaint from some occupants who received the letter.

The Landlord provided a copy of the letter authored by the Tenant.

In reply, the Tenants provided testimony confirming that they wrote the letter and slipped it under the door of the other occupants. The Tenants testified that the Landlord was questioning the other occupants about their sexuality and saying other stuff about them, so they decided to defend themselves.

The Tenants testified that numerous occupants of the rental property informed them that they were not offended by the letter and the Tenants submit that there was no disturbance to the occupants because the letters were slipped under the doors.

Analysis

Residential Tenancy Policy Guideline #38 Repeated Late Payment of Rent provides the following information:

The Residential Tenancy Act and the Manufactured Home Park Tenancy Act both provide that a landlord may end a tenancy where the tenant is repeatedly late paying rent. Three late payments are the minimum number sufficient to justify a notice under these provisions.

In the matter before me, the Landlord has the onus of proof to prove that the reasons for ending the tenancy in the Notice are valid. Based on the evidence and testimony before me, I make the following findings:

I find that the Landlord has not provided sufficient evidence to support that the rent has been paid late on three occasions. I find that the parties reached a settlement agreement regarding the missing rent payment for August 2019, and this circumstance is not a late payment of rent.

With respect to whether or not the Tenants significantly interfered with or unreasonably disturbed another occupant or the Landlord, I have considered the testimony and evidence before me. The letter authored by the Tenants mentions a few concerns including the stolen rent payment and the Landlords issuance of the eviction notice. The letter mentions an issue with the Landlords obligation to clean the rental property and responsibility to honor tenancy contracts.

I find that the Landlord did not provide sufficient evidence to support that the letter distributed by the Tenants to the other occupants of the rental property significantly interfered with or unreasonably disturbed another occupant or the Landlord.

I find that the Landlord has not provided sufficient evidence to support both of the reasons to end the tenancy; therefore, I cancel the One Month Notice to End Tenancy for Cause, dated October 16, 2019.

The Tenant's application to cancel the One Month Notice is successful. The tenancy will continue until ended in accordance with the Act.

Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated October 16, 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: November 26, 2019

Residential Tenancy Branch