



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SOCIETY OF HOPE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNC

Introduction

On October 31, 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 25, 2019, ("the One Month Notice").

The Tenant and the Landlord's agent ("the Landlord") 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. The parties testified that they have exchanged the documentary evidence that I have before 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 June 1, 2018, on a month to month basis. Rent in the amount of \$830.00 is due each month. The Tenant paid the Landlord a security deposit of \$397.50. The Landlord testified that rent is related to income.

The Landlord served the One Month Notice to the Tenant on October 25, 2019. The Notice has an effective date (the date the Tenant must move out) of November 30, 2019.

Within the One Month Notice, the Landlord selected the following reasons for ending the tenancy:

- *Tenant has allowed an unreasonable number of occupants in the unit /site.*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.*

Within the One Month Notice, the Landlord provided details of the cause as follows:

The Tenant is in a one-bedroom unit and has had her son D.F. occupying the unit for an extended period of time without permission from the Landlord. Tenant has not complied after multiple requests from the Landlord to have him leave. Tenant was issued warning letters from the Landlord regarding this issue.

The One Month Notice provides information for Tenants who receive the Notice. The Notice provides 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 October 31, 2019 within the required time frame.

The Landlord testified that the tenancy agreement contains a term that the person listed in the tenancy agreement shall be the only permanent occupant of the premises. The Landlord testified that the Tenant has her son living with her in the rental unit. The Landlord testified that the Tenant was spoken to many times about the issue and was issued warning letters. The Landlord testified that when the Tenant did not comply with the warnings the Landlord issued the One Month Notice. The Landlord provided a copy of the tenancy agreement and copies of the warning letters that were issued to the Tenant.

The Landlord testified that the Tenants son is seen on the property day and night. The Landlord provided a log documenting the occasions the Tenant's son was on the property in October 2019.

The Landlord testified that on September 25, 2019, the Tenant admitted that her son is staying there and asked if he could have until the middle of October to have time to find a place.

The Landlord testified that the Landlord wants to proceed with ending the tenancy and requested an order of possession for the rental unit.

In response to the Landlord's testimony, the Tenant testified that her son does not live with her in the rental unit. She testified that when she first moved into the unit in June 2018, her son stayed a couple of nights. She testified that her son has not stayed in the unit since that time.

The Tenant testified that she has a medical condition and her son visits her and assists her groceries and other activities.

In response to the Landlords testimony regarding a conversation on September 25, 2019, the Tenant testified that she never told the Landlord that her son was staying in the unit. She testified that because of her health issues, she asked the Landlord if her son could be permitted to stay.

The Tenant testified that her son has his own residence elsewhere.

Analysis

Section 30(1) of the Act provides that a Landlord must not unreasonably restrict access to residential property by;

- (a) the tenant of a rental unit that is part of the residential property, or*
- (b) a person permitted on the residential property by that tenant.*

Section 9 of the Residential Tenancy Regulation provides that a Landlord must not stop a Tenant from having guests under reasonable circumstances in the rental unit; the Landlord must not impose restrictions on guests and must not require or accept any extra charge for daytime visits or overnight accommodation of guests.

Section 47 (1)(c) and (h) of the Act provides that a Landlord may end a tenancy by giving a One Month Notice to end the tenancy if there are an unreasonable number of occupants in a rental unit; or if the Tenant has failed to comply with a material term and has not corrected the situation within a reasonable time.

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 there is insufficient evidence from the Landlord to establish that the Tenant's son is living in the rental unit on a full-time basis. While I acknowledge the Landlord's log showing dates and times that the Tenant's son was on the rental property, this is not sufficient to prove that the Tenant has moved into the rental unit. The Tenant testified that she has a medical condition and her son provides her with assistance.

A Tenant who permits a guest onto a rental property is responsible for the activity and actions of the guest. While I understand the Landlord's concern for the safety and security of the rental property, and for enforcing a single occupancy term of a tenancy agreement; the Landlord does not have the authority to restrict access to a person permitted on the residential property by the Tenant.

I find that it is reasonable for the Tenant to allow a guest to occasionally stay in the rental unit.

I find that the Landlord has provided insufficient evidence to establish that the Tenant has breached the Act, or the tenancy agreement, by allowing an unauthorized occupant to move into the rental unit.

The Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated October 25, 2019 is successful. The One Month Notice is cancelled.

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 25, 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: December 30, 2019

Residential Tenancy Branch