



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOWN PARK HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

On November 12, 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 31, 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. The Landlord confirmed that he has received the Tenant’s documentary evidence. The Landlord did not provide any documentary evidence in support of his reasons to end the tenancy.

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 in September 2017, on a month to month basis. Rent in the amount of \$600 is due by the first day of each month. The Tenant paid the Landlord a security deposit of \$300.00.

The Landlord served the One Month Notice to the Tenant in person on October 31, 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 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*
- *Put the Landlord's property at significant risk*

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 Tenant disputed the One Month Notice on November 12, 2019 within the required time period.

The Landlord provided affirmed testimony on the reasons why the tenancy should end. The Landlord testified that he observed garbage on the ground below the Tenant's window on three occasions between September and October 2019. He testified that after the third occasion he approached the Tenant and spoke to her and asked her to stop throwing garbage out of her window. The Landlord testified that the Tenant agreed.

The Landlord testified that On October 28, 2019 a person approached him and reported that she was assaulted inside the Tenant's rental unit by the Tenant. The Landlord testified that the victim of the assault also reported the incident to the police.

The Landlord testified that the Tenant left a dead puppy on the residential property. The Landlord testified that the Tenant said the puppy got hit by a car.

The Landlord testified that feces was found on the third floor of the rental unit. The Landlord testified that another occupant reported to him that a group of children were

responsible for the feces and that the person responsible for the feces is a friend of the Tenant's son.

In response to the Landlord's testimony, the Tenant testified that she agrees with some of what the Landlord has said.

The Tenant testified that her cousin entered the Tenant's rental unit uninvited and she was high on drugs. The Tenant testified that she asked her cousin to leave. She testified that her cousin grabbed a computer tablet and started to run out of the unit, and the Tenant stopped her. The Tenant testified that her cousin punched her in the face, so the Tenant fought back. The Tenant testified that she called the police to report the matter, but the police did not attend.

The Tenant's advocate submitted that the Tenant lives on the second floor and the Landlord found excrement on the third floor. The advocate submitted that people come and go at all times on the rental property and the Landlord is not certain that it was the Tenant's child who was involved.

The Tenants advocate submitted that the Landlords submission about the dead puppy is not relevant to the reasons the Landlord selected for ending the tenancy.

With respect to the Landlord's testimony that the Tenant was throwing garbage from her window, the Tenant testified that she does not recall throwing garbage from her window. The Tenant testified that the Landlord spoke to her about throwing garbage out the window, but she did not throw garbage out her window. The Tenant testified that she did throw some bread out the window for birds. She testified that the occupants above her used to throw garbage out of their window, but they have now been evicted.

The Tenant's advocate submitted that the Landlord has not actually observed the Tenant throwing garbage out the window.

The Landlord testified that incident with the occupants living above the Tenant was prior to September 2019.

Analysis

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

I find that the Landlord did not observe the Tenant throwing garbage from the window of the rental unit. The Tenant testified that she has not thrown garbage out of her window. On this issue, I find that there is insufficient evidence from the Landlord that the tenancy should end for this reason.

With respect to the assault of a person in the rental unit, the Tenant testified that her cousin entered her unit without permission; stole her property; and assaulted her. While I acknowledge that the Tenant fought back, the police did not attend the incident. I am mindful that the Landlord did not issue the Notice due to an allegation of illegal activity such as an assault. In considering this matter, I find that there was no evidence from the Landlord on whether or not the Tenants cousin is also a Tenant who is living or permitted to be on the rental property. There was no testimony or evidence from the Landlord that the health or safety of another Tenant or occupant of the rental property was seriously jeopardized. There was no evidence from the Landlord that as a result of the assault, another occupant or the Landlord was unreasonably disturbed by the incident.

On this issue, I find that there is insufficient evidence from the Landlord that the tenancy should end for this reason.

With regard to the feces that the Landlord found on the third floor, the Landlord received the information from another Tenant. The Landlord did not directly observe involvement of the Tenant's child in the incident. There is insufficient evidence from the Landlord that the person responsible for the incident was invited onto the property by the Tenants son, which would make the Tenant responsible for the actions of their guest.

On this issue, I find that there is insufficient evidence from the Landlord that the tenancy should end for this reason.

With respect to the deceased puppy, the Landlord provided no testimony on how the puppy impacted him or other occupants of the rental property. While I accept that the Tenant should be responsible for the proper removal/ disposal of the puppy, there was no evidence from the Landlord on how long the puppy was left on the property or whether or not the Landlord had a conversation with the Tenant about removal of the puppy.

On this issue, I find that there is insufficient evidence from the Landlord that the tenancy should end for this reason.

I find that the Landlord has not provided sufficient evidence that the tenancy should end for any of the reasons listed in the One Month Notice.

The One Month Notice to End Tenancy for Cause, dated October 31, 2019 is cancelled.

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

Conclusion

The Tenant's application to cancel the One Month Notice is successful. The One Month Notice issued by the Landlord dated October 31, 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: January 10, 2020

Residential Tenancy Branch