



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On July 15, 2020, the Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") to cancel a One-Month to End Tenancy for Cause, (the "Notice") issued on July 12, 2020, and to recover the filing fee for this application. The matter was set for a conference call.

The Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

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

- Should the Notice July 12, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the recovery of the filing fee of their application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recoded that this tenancy began on June 1, 2011, that rent in the amount of \$875.00 was due on the first day of each month and that the Tenant had paid a \$437.50 security deposit. The Tenant provided a copy of the tenancy agreement into documentary evidence.

The Notice shows that the Landlord served the Notice to end tenancy to the Tenant on July 12, 2020, by posting it to the front door of the rental unit. The Tenant provided a copy of the Notice into documentary evidence.

The reason checked off within the Notice is as follows:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord
- *Tenant or person permitted on the property by the 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 states that the Tenant must move out of the rental unit by August 31, 2020. The Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice also informed the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenants are presumed to accept the Notice and must move out of the rental unit on the date set out on page one of the Notice.

The Landlord testified that the Notice was issued due to the Tenant posting a video of a fight they had with the occupants living on the rental unit next door to the Tenant. As well as two social media comments, the Tenant had posted about the occupants living on the rental unit next door. The Landlord testified that the occupants living next door were the Landlord's son, their son's wife, and their daughter. The Landlord testified that the comments were hurtful and of a personal nature. The Landlord submitted a copy of the video and the social media posts into documentary evidence.

The Landlord also stated that the Tenant had made several noise complaints about the other people living on the rental property, stating that the other occupants are threatening towards them and that the Tenant has called the police to the property several times.

The Tenants testified they had been in a dispute with the occupants living next to them and had posted the video and comments on social media, but that they did not believe that was grounds to end their tenancy. The Tenant also testified that they took the post down when the Landlord asked them to remove them.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the Notice to End Tenancy on July 15, 2020, three days after it was posted to the front door, pursuant to the deeming provisions set out in section 90 of the *Act*.

Section 47 of the *Act* gives a Tenant ten days to dispute the Notice. I find the Tenant had until July 25, 2020, to file their application to dispute this Notice. The Tenant filed their application on July 15, 2020, within the statutory time limit.

The Landlord indicated three reasons on the Notice as the cause for ending the Tenant's tenancy. However, I find that all three of the reason stemmed from the same issue, the Tenant's social media posts regarding the Landlord's son's family, who rent the unit next door to the Tenant.

After hearing all of the Landlord's testimony and reviewing the Landlord's evidence, I find that these social media posts, although they may have been upsetting to the family, to be insufficient cause to end this tenancy.

Overall, I find that the Landlord has not proven sufficient cause, to satisfy me, to terminate the tenancy for any of the reasons indicated on the Notice they issued. Therefore, I grant the Tenant's application to cancel the Notice issued July 12, 2020, and I find the Notice has no force or effect. This tenancy will continue until legally ended in accordance with the *Act*.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in their application to dispute the Notice, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application. The Tenant is granted permission to take a one-time deduction of \$100.00, from their next month's rent in satisfaction of this award.

Conclusion

The Tenant's application to cancel the Notice, issued July 12, 2020, is granted. The tenancy will continue until legally ended in accordance with the Act.

I grant the Tenant permission to take a one-time deduction of \$100.00 from their next month's rent.

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: August 21, 2020

Residential Tenancy Branch