



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties confirmed that they exchanged their documentary evidence.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord gave the following testimony. The landlord testified that he issued a One Month Notice to End Tenancy for Cause dated August 28, 2020 for the following reason:

Landlord's notice: cause

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(c) there are an unreasonable number of occupants in a rental unit;

The landlord testified that the tenant resides in a bachelor suite that is approximately 400 square feet. The landlord testified that the tenant is the sole occupant of the unit as reflected on the tenancy agreement. The landlord testified that he received complaints that during the month of August 2020; there was a constant flow of people coming and going to the unit. The landlord testified that people were banging on the window of the subject unit as well as crawling through it. The landlord testified that he received four verbal complaints and one written complaint about the tenant. The landlord testified that the security of the building and other tenants has been compromised by the tenant's actions and requests to have the tenancy terminated and an order of possession granted.

The tenant testified that he had a friend stay with him during the month of August. The tenant testified that he was only supposed to stay for two weeks as per the tenancy agreement; but his friend overheld and didn't leave until August 27, 2020. The tenant testified that he was not given any written or verbal warnings by the management and that the matter has been resolved. The tenant testified that he doesn't have a functioning intercom system which is why his guests would knock on his window creating much of the confusion resulting in this hearing. The tenant testified that his friend has left and there hasn't been any problems since. The tenant wishes to remain.

Analysis

When a landlord issues a notice under Section 47 of the Act, they bear the responsibility in providing sufficient evidence to support the issuance of that notice. I find that the tenant was served with a notice to end tenancy. The landlord testified that there was not a written warning given to the tenant but several verbal warnings. The landlord testified that since the notice to end tenancy was issued there has been no further complaints. The tenant testified that his friend left on August 27, 2020 and that the issue has been resolved. The tenant testified that the lack of intercom access has created much of the issue and confusion. Based on the above, and on a balance of probabilities, the landlord has not provided sufficient evidence to satisfy me that this tenancy should end based on the reason "checked off" on the notice. The One Month Notice to End Tenancy for Cause dated August 28, 2020 is cancelled, it is of no effect or force.

I find it timely to put the tenants on notice that, if these alleged behaviours were to occur in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

Conclusion

The One Month Notice to End Tenancy for Cause dated August 28, 2020 is cancelled, it is of no effect or force; the tenancy continues.

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: October 19, 2020

Residential Tenancy Branch