



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On April 22, 2021, 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 April 8, 2021. 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. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

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 issued on April 8, 2021, be cancelled?
- If not, is the Landlord entitled to an order of possession?

Background and Evidence

While I have considered 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 Notice shows that the Landlord served the Notice to end tenancy to the Tenant on April 8, 2021, by Canada Post Mail. The Landlord submitted 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
 - *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*

The Notice states that the Tenant must move out of the rental unit by May 31, 2021. The Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice also informed the Tenants that if an application to dispute the Notice is not filed within 10 days, the Tenant is 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 there has been a history of this Tenant getting into verbal arguments with one of the other renters on the rental property and that in 2019, this Tenant physically assaulted this other renter. The Landlord testified that they had initially sought to end this Tenant tenancy due to the 2019 incident but that it was later determined that the Tenant could remain.

The Landlord testified that on April 1, 2021, the Tenant and the other renter got into a verbal disagreement in the hallway of the rental property and that during this incident, the Tenant threatened the other renter stating: "Next time I punch you, I will put you in the hospital." The Landlord testified that due to this threat, they decided to end this

tenancy and are seeking an order of possession to enforce their Notice. The Landlord submitted two witness statements into documentary evidence.

The Tenant agreed that there was an incident between themselves and another renter in 2019 and again on April 1, 2021. However, the Tenant testified that the other renter often instigates the arguments between them and that what they had said in April 2021 was said in the heat of the moment and nothing that they would have acted on.

The Tenant testified that the 2019 dispute had been resolved between themselves, the Landlord and the other renter and should not be used against them now, as it was a long time ago.

The Tenant testified that the police did speak to them regarding their statement made on April 1, 2021, but that no charges were laid against them for this incident.

Analysis

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

I find that the Tenant was deemed to have received the Notice to End Tenancy on April 13, 2021, five days after the Notice was mailed to the Tenant. Pursuant to section 47 of the *Act*, the Tenant had ten days to dispute the Notice. I find the Tenant had until April 23, 2021, to file their application to dispute the Notice. The Tenant filed their application on April 22, 2021, within the statutory time limit.

The Landlord indicated two reasons on the Notice as the cause for ending the Tenant's tenancy; as both these reasons stem from the same incident, I will address them together:

- 1) The Tenants have seriously jeopardized the health or safety or lawful right of another occupant or the Landlord
- 2) The Tenants have significantly interfered with or unreasonably disturbed another occupant or the Landlord.

I accept the agreed-upon testimony of the Landlord and the Tenant, that on April 1, 2021, the Tenant and another renter got into a verbal confrontation in a common

hallway on the rental property and that during this confrontation, the Tenant stated, "Next time I punch you, I will put you in the hospital." I also accept that the Tenant and this renter have a history of not getting along dating back to 2019 and that both the Tenant and the other renter engaged in name-calling and verbal hostilities during the April 1, 2021 incident.

After careful review of the Landlord's documentary, I find that the Landlord has not provided sufficient documentary evidence to satisfy me, that the incident of April 1, 2021, warrants the end of this tenancy.

Overall, I find that the Landlord has not proven sufficient cause to terminate the tenancy for any of the reasons given on the Notice they issued. Therefore, I must allow the Tenant's application to cancel the Notice.

I find the Notice issued April 8, 2021, of no effect, and this tenancy continues until it is ended in accordance with the *Act*.

The Tenant was cautioned during these proceedings, that further breaches of appropriate behaviour may result in sufficient grounds to end their tenancy.

Conclusion

I grant the Tenant's application, and I find the Notice issued April 8, 2021, of no effect under the *Act*. The tenancy will continue until legally 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: August 5, 2021

Residential Tenancy Branch