



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

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

Is the tenant entitled to an order compelling the landlord to comply with the Act, regulation, or tenancy agreement?

Background and Evidence

The landlord gave the following testimony. The tenancy began about eight years ago with the rent of \$1100.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on July 27, 2021 for the following reasons:

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:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

The landlord testified that his stepson lives on the other side of this side-by-side duplex. The landlord testified that the tenants threatened his stepson on July 26, 2021. The landlord testified that the tenants called his stepson a pedophile. The landlord testified that the tenants have continually harassed his stepson since that date. The landlord testified that he was not present at any of these alleged incidents. The landlord testified that he has not given any formal warnings prior to or since issuing the notice to end tenancy. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant adamantly disputes the landlord's allegations. The tenant testified that the landlord's stepson is in fact the one harassing

her and her family. The tenant testified that the landlord stepson urinates off the front balcony in front of her daughter when he's drinking and seeks confrontation with the tenants. The tenant testified that's a landlord is not dealing with his stepson as a tenant, even though he is. The tenant testified does she is made 4 written complaints about the landlord's stepson, yet he has done nothing about it. The tenant testified that she would like to remain in the home until she is able to move out on her own accord.

Analysis

When a landlord issues a notice to end tenancy under section 47 of the Act, they bear the burden of providing sufficient evidence to justify the issuance of the notice. The landlord did not observe or witness any of the alleged incidents that he is relying on to end this tenancy. The landlord's stepson did not participate in this teleconference to provide testimony. The landlord did not provide sufficient documentation to support any of the grounds that he issued the notice on. Based on the insufficient documentation and lack of firsthand observation or witnessing of the events, I find that on a balance of probabilities, the landlord has not satisfied me that this tenancy must end. As a result, I hereby set aside the notice dated July 27, 2021, it is of no effect or force. The tenancy continues.

The tenant has not provided sufficient evidence to warrant a specific order being made to have the landlord comply with the Act, regulation or tenancy agreement, accordingly; I dismiss that portion of their application.

Conclusion

The One Month Notice to End Tenancy for Cause dated 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: December 13, 2021

Residential Tenancy Branch