



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUSSEX VILLA
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on September 20, 2013, by the Tenants to cancel a Notice to end tenancy issued for cause and to recover the cost of the filing fee from the Landlords for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenants and gave affirmed testimony. The testimony was provided by the female Landlord and female Tenant throughout this teleconference hearing. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the 1 Month Notice to end tenancy issued September 19, 2013 be cancelled or upheld?

Background and Evidence

The parties confirmed the tenancy began on January 1, 2010 and is now a month to month tenancy. Rent began at \$825.00 and has since been increased to \$850.00 and is payable on or before the first of each month. In December 2009 the Tenants paid \$412.50 as the security deposit.

The Landlord testified that she and her husband have been resident managers since June 2013. On September 17, 2013 they spoke with the Tenants about a car they saw the male Tenant driving that was parked in the wrong stall and requested that the car be moved. They saw this car parked in another stall again on September 18th and also on

September 19th so they spoke with the Tenants again and requested that it be moved to the street. The Landlord stated that the male Tenant was very angry and fighting with her when she kept telling him she was just doing her job. She informed them again that there was no visitor parking and that the car had to be moved to the street.

The Landlord argued that she knows everyone's car that lives in the building and this car was the Tenants' friend's car. She also noted that the Tenants' car is not parked correctly in their stall as it is taking up two stalls. When she tried to talk to the Tenants about taking up two stalls they yelled at her again saying everyone takes up two stalls. It was immediately following the conversation on September 19th, 2013 that she wrote the 1 Month Notice and served it to the Tenants.

The Tenant testified that they are multi cultural and that they have the freedom of expression. Her husband was not fighting with the Landlord, he did not use foul language. He simply raised his voice, which is their culture. She confirmed there have been issues with parking but each time they were told to move the car they did so right away. Their previous managers said it was okay to park in vacant spots. It was not until recently that the visitor parking stalls were removed.

A discussion followed and the Landlord confirmed she had never issued any warnings in writing. Their requests to park in the proper stalls were always verbal. She stated that she now understood that she must issue warnings in writing before issuing eviction notices.

The Tenant confirmed that their car is not currently parked straight but that the battery is dead. I instructed the Tenant to make sure that her car is parked properly by 5:00 p.m. today otherwise the Landlord will be at liberty to issue them a written warning to have it parked properly. I also informed the Tenant that it is not appropriate to raise voices at their landlord when they are discussing landlord business. She stated that she understood.

Analysis

Upon review of the 1 Month Notice to End Tenancy issued September 19, 2013, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the Tenant in a manner that complies with section 89 of the Act.

The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- Tenant or a person permitted on the property by the tenant has:
 - *Significantly interfered with or unreasonable disturbed another occupant or the landlord*

When considering a 1 Month Notice to End Tenancy for Cause the Landlord has the burden to provide sufficient evidence to establish the reasons for issuing the Notice to End Tenancy.

Upon review of the evidence before me I find the Landlord did not issue the Tenants clear written instructions about the new parking rules. Furthermore, the Landlords did not issue written warnings to the Tenants which clearly indicate that their friend's car could not park in vacant parking stalls on the property. No subsequent written notices were issued that stated if the vehicle is parked in a stall not belonging to the Tenants again it would be grounds for eviction.

Based on the above, I find there to be insufficient evidence to uphold the 1 Month Notice. Accordingly, the 1 Month Notice is cancelled.

The Tenants have been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Conclusion

I HEREBY CANCEL the 1 Month Notice to end tenancy for cause issued September 19, 2013. The Notice is of no force or effect.

The Tenants may deduct the one time award of the **\$50.00** filing fee from their next rent payment.

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 30, 2013

Residential Tenancy Branch

