



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Locke Property Management Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application to cancel a Notice to End Tenancy that was given for cause.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to uphold or cancel a Notice to End Tenancy that was given for cause.

Background and Evidence

Landlords testified that:

- This Notice to End Tenancy has been given because the tenant has been unreasonably disturbing the other tenants of the rental property by sitting out on his patio coughing and spitting loudly on numerous occasions.
- They have had numerous written complaints (copies included) from other tenants in the rental property about this ongoing noise and how disruptive it is.
- They have requested that the tenant stopped spitting on his patio, and move indoors to do is coughing and spitting however the tenant has ignored the requests.
- They have had tenants threatened to move if this ongoing disruption does not stop as its disrupting the sleep of the other tenants in the rental property.

The tenant testified that:

- He does cough and spit due to a medical condition, however he does not spit on the ground, he spits into a coffee can.
- He does not wish to disturb anybody but he cannot help his coughing and spitting.
- He does not do his spitting indoors all the time as he goes out onto his patio to get fresh air to help him breathe better.
- His doctors told him it would be detrimental to his health for him to move.
- He is therefore requesting that this Notice to End Tenancy be canceled

Analysis

It is my finding that the tenant is unreasonably disturbing numerous other occupants of the rental property by coughing and spitting on his patio.

This problem may well be the result of a medical condition; however it's unreasonable for the other occupants in the rental property to have to put up with this unreasonable disturbance. I fail to see why the tenant cannot do his coughing and spitting indoors.

The tenant claims that he moved outside to get fresh air to help him breathe better; however it's obvious from the complaint letters that the tenant spends a large amount of time outdoors coughing and spitting.

Further the tenant has provided no evidence to show that the air quality inside his rental unit causes difficulty for him to breathe.

Conclusion

It's my decision that I will not cancel this Notice to End Tenancy, this application is dismissed.

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 20, 2014

Residential Tenancy Branch

