



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing was convened pursuant to the tenants' application to cancel a notice to end tenancy for cause. The tenants had also originally applied for monetary compensation, but they amended their application to withdraw the monetary claim. The tenants and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issues

The tenants argued that there was nothing to show that the respondent, GC, was the legal agent of the owner. However, the tenants named GC as the sole respondent in this matter; they stated that this was because GC served them with the notice to end tenancy. Further, the landlord submitted in their evidence a letter authorizing GC to act as the owner's agent. I stated that I was satisfied that GC was an authorized agent of the owner for the purpose of the hearing.

The tenants also argued that some of the landlord's evidence contained settlement offers that they had indicated were "without prejudice," and these documents should not be admitted as evidence. I informed the parties that I would not admit or consider any genuine settlement offers made by the tenants.

Issue(s) to be Decided

Is the notice to end tenancy for cause dated June 22, 2016 valid?

Background and Evidence

The rental unit is located in a heritage house that contains five suites. The tenants first rented unit 201 beginning June 1, 1994, and on November 1, 2003 they also began renting unit 202. The landlord, GC, is also a tenant in one of the other suites in the house.

On June 22, 2016 the landlord served the tenants with a notice to end tenancy for cause. The notice indicates that the reason for ending the tenancy is that the tenants seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord stated that the tenants stored numerous tires inches from the furnace for the building, which constituted a fire hazard. The landlord stated that the tenants then moved the tires, as well as two bicycles, into the common laundry room, which blocked the basement tenant's exit. The landlord stated that the tenants have been storing a hockey net in a common area under a metal staircase, and recently, after a garden was planted in this area, the tenants destroyed some plants in that area to install a basketball hoop and stand. The landlord stated that the basketball hoop constitutes a safety risk to other tenants, whose windows are located 12 feet directly behind the basketball hoop.

The landlord stated that the tenants have not been very cooperative about responding to the landlord's concerns about these issues. The landlord stated that on May 11, 2016 he attempted to speak to the male tenant about removing the basketball hoop, and the tenant became physically intimidating and verbally abusive toward the landlord, and he refused to remove the hoop. The landlord stated that the tenants then attempted to directly deal with the owner and have GC, the owner's agent, evicted. The landlord stated that the tenants would not comply with the landlord's written request to remove the basketball hoop, and on June 22, 2016 the tenants were served with the one month notice to end tenancy.

The tenants' response to the landlord's evidence was as follows. The tenants stated that the landlord's evidence was all lies and conjecture. The tenants stated that the tires were three feet away from the boiler, and they were further away than the landlord's items. The tenants stated that they have stored bicycles and other items in front of the storage locker for 21 years, and only recently did the landlord start harassing the tenants about these things. The male tenant stated that on May 12, 2016, the landlord "pounced" on him, was belligerent, and stood within three or four inches from him and poked him in the chest. The tenant stated that he "unfortunately took [the landlord's]

bait” and responded to him, but he did not threaten him. The tenant also stated that the landlord’s photographs are distorted and inaccurate.

Analysis

I find that the notice to end tenancy dated June 22, 2016 is not valid, as the landlord has failed to provide sufficient evidence that the tenants seriously jeopardized the health or safety or lawful right of another occupant or the landlord. Based on the landlord’s evidence, I find that the tenants’ actions did not put the health or safety or lawful right of another occupant or the landlord in serious jeopardy. I make no findings in regard to material terms of the tenancy agreement or common versus designated areas, as those issues were not alleged as causes for ending the tenancy or granting monetary compensation. I therefore cancel the notice to end tenancy.

I note that there is obvious friction between the landlord and the tenants, particularly in regard to their differing views on use of the property. The Residential Tenancy Branch provides ample information regarding these topics on its website, as well as through the information officers. I urge the parties to take steps to better understand their rights and responsibilities under the Act.

Conclusion

The notice to end tenancy dated June 22, 2016 is cancelled, with the effect that the tenancy continues until such time as it ends in accordance with the Act.

As their application was successful, I order that the tenants may withhold \$100.00 from their next month’s rent, in full compensation of their filing fee.

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 29, 2016

Residential Tenancy Branch

