



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC AAT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on April 24, 2017 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a One Month Notice to End Tenancy for Cause, dated April 19, 2017 (the "One Month Notice"); and
- an order allowing access to (or from) the unit or site for the Tenants or the Tenants' guests.

The Tenant attended the hearing on his own behalf. The Landlord was represented at the hearing by C.L. and P.S., agents. All parties in attendance provided a solemn affirmation.

The Tenant confirmed the Application package, including the Notice of a Dispute Resolution Hearing and documentary evidence, was served on the Landlord in person. Although neither party could recall the precise date of service, the Tenant testified it was served within three days after receiving documents from the Residential Tenancy Branch. The Landlord's agents confirmed receipt. Pursuant to section 71 of the *Act*, I find the Landlords were sufficiently served with the Application package for the purposes of the *Act*.

No further issues were raised with respect to service and receipt of the above documents. The parties were provided an opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Issues

1. Is the Tenant entitled to an order cancelling the One Month Notice?
2. Is the Tenant entitled to an order allowing access to (or from) the unit or site for the Tenant or the Tenant's guests?

Background and Evidence

On behalf of the Landlord, C.L. testified that the Tenant was hired to perform labour work around the rental property in or about July 2016. In late-2016, the Tenant was given additional responsibility as a relief caretaker. However, C.M. advised that he received complaints from other tenants about the Tenant relating to drug use and violence. He also received a telephone call from the local police services in relation to an allegation of domestic violence, and was asked if the Tenant possessed master keys. Accordingly, C.M. ended the Tenant's role as caretaker but continued to use him for labour tasks around the rental property.

Further, C.M. described an incident that occurred between the Tenant and P.S. on or about April 7, 2017. P.S. provided further testimony with respect to the incident, during which the Tenant, who appeared to have been drinking beer, became agitated. According to P.S., the Tenant slammed his fists on the table while discussing damage done to the grass by another employee. P.S. stated that the Tenant locked the door from inside during the incident. However, the Tenant left the office when asked to do so by P.S. and threatened to call police.

In reply, the Tenant adamantly denied having acted aggressively or banging his fists on the table, and submitted the conversation was in relation to how the damage caused by another employee would be addressed. He also denied that he was threatened with police attendance during the incident. The Tenant otherwise did not dispute the events as described by P.S.

C.M. provided further testimony with respect to what he described as the main reason for wishing to end the tenancy. He cited the Tenants use of master keys to access the staff laundry facilities after his employment had been terminated as the primary reason for issuing the One Month Notice. C.M. testified the Tenant made duplicate copies of the keys without authorization from the Landlord.

In reply, the Tenant denied that he made duplicates of any keys, but that he used the laundry facilities as he had always done with the knowledge of C.M. and P.S.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy for the reasons listed therein. The burden is on the landlord to provide sufficient evidence in support of the reasons for wishing the end the tenancy. In this case, the Landlord issued the One Month Notice on the bases that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, or has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

After carefully considering the testimony of the parties and the documentary evidence submitted by the Tenant, I find there is insufficient evidence before me to uphold the One Month Notice and end the tenancy. The One Month Notice is cancelled. On behalf of the Landlord, C.L. confirmed that the main reason for wishing to end the tenancy was the Tenant's use of staff laundry facilities he accessed with master keys, duplicates of which were made without authorization. Without more, this is not a sufficient basis for ending a tenancy. Although the Tenant acknowledged using staff laundry facilities, he testified he did so with the prior approval of P.S. and C.L. The Tenant denied having made duplicate copies of keys.

To the extent the Landlord relied on the incident between the Tenant and P.S. as a basis for ending the tenancy, I find that while the discussion might have become heated, there was no physical contact between the Tenant and P.S., and the Tenant left the office when asked to do so. I note the Tenant denied any physical aggression and denied P.S. threatened to call the police.

In light of the above, I find that the One Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

The Tenant advised during the hearing that he has access to his rental unit. Accordingly, the request for an order allowing access to (or from) he unit or site for the Tenant or the Tenant's guests has not been considered further in this Decision.

Conclusion

I order that the One Month Notice is cancelled. The tenancy will continue until otherwise 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: June 1, 2017

Residential Tenancy Branch