



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on October 6, 2018.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on October 15, 2017. Rent in the amount of \$1,100.00 was payable on the first of each month. The tenants paid a security deposit of \$550.00 and a pet damage deposit of \$550.00.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on November 30, 2018.

The reason stated in the Notice was that the tenants have :

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The landlord testified that the tenants have caused unreasonable disturbance by domestic fighting, drunkenness, and noise. The landlord stated that the police have attended the premises on multiple occasions.

The landlord testified that in July 2018, during the day the police attended due to domestic violence, in which the female tenant was struck by the male tenant. The landlord stated that one of the occupants who was walking their dog at the time were ordered by the police to return to their rental unit, until the male tenant was located; the male tenant was hiding in the complex.

The landlord testified that later that day they spotted the male tenant hiding behind their complex and notified the police; however, the male tenant was gone.

The landlord testified that on October 5, 2018, at approximately 11:30pm, three (3) police cars attended due to the drunkenness, domestic fighting and violence of the male tenant, causing a significant disturbance in the multi-family complex.

Submitted as evidence are emails and text messages from other occupants of the complex.

The email from TB reads in part,

“...My family and I have been woken up many times from there drunken nights where they stand outside and yell at one another and the cops show up...it's also not right to feel scared in your own house because your neighbours are drunk and like to fight...”

[Reproduced as written]

A letter from JU in part reads,

“I have observed the police attend unit 5 a minimum of 4 times, including the evening of October 5th, 2018. I witnessed ...the police arresting an individual who they had sprawled out on the front yard...”

[Reproduced as written]

The tenant testified that they do not recall any incident in July 2018. The tenant stated what happens inside their rental unit is no one's business, as it does not impact anyone else.

The tenant testified that there have been no incidents of violence and on October 5, 2018, the male tenant arrived home drunk and they had the police remove them for the night.

The landlord argued that the tenant is providing false evidence. The landlord stated that the text messages filed in evidence supports that the male tenant attends drunk and beats the female tenant, in which the police are called to attend causing significant disturbances in the multi-family complex. Filed in evidence are text messages that support the landlord's version of events.

The landlord argued that the ongoing fighting continues to unreasonably disturb the other occupants of the multi-complex.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenants have:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

I accept the evidence of the tenant that what happens between the tenants inside their rental unit may not be the concerns of other parties. However, that is not the case in

this situation, as the evidence supports that the ongoing domestic fighting has unreasonable disturbed other occupants in the multi-family complex.

In this case, occupants of the complex have been ordered by the police to return to their premises while the male tenant was located. The male tenant was avoiding apprehension and or questioning by the police, from the domestic fighting, causing unnecessary fear and interfering with the occupant's legal rights.

Furthermore, there was domestic fighting between the parties that were heard by other occupants on October 5, 2018. Multi police cars attended and the male tenant was removed from the property.

I do not accept that the tenant's version that the male tenant simply arrived home drunk, because that alone does not give the police the authority to remove someone from their home. I find it more likely than not that domestic fighting occurred, causing further significant and unreasonable disturbances to the other occupants.

Based on the above, I find that on two occasions the other occupants in the multi-family complex were significantly and unreasonably disturbed by the actions of the tenants, specifically the male tenant. I find the evidence does support the Notice was issued for the reasons stated.

I find the Notice issued on October 6, 2018, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenants' application to cancel the Notice, The tenancy will end on November 30, 2018, in accordance with the Act.

Since the tenants were was not successful with their application, I find the tenants are not entitled to recover the filing fee from the landlords.

Section 55(1) of the Act states: Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **November 30, 2018, at 1:00 P.M.**

Conclusion

The tenants' application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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: November 29, 2018

Residential Tenancy Branch