

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant to cancel to notice the end tenancy for cause.

Issue to be Decided

Whether the notice to end tenancy should be cancelled?

Background and Evidence

The tenancy began on August 1, 2004. Rent in the amount of \$620.00 is payable in advance on the first of each month. On December 18, 2008, the tenant was served with a notice to end tenancy for cause based on the these grounds: 1) the tenant was repeatedly late in paying rent; 2) the tenant has engaged in illegal activity that has, or is likely to: (a) adversely affect the quiet enjoyment, security, safety or physical well-being of the landlord, and (b) jeopardize a lawful right or interest of the landlord; 3) the tenant knowingly gave false information to prospective tenant or purchaser of the rental unit.

Analysis

The landlord said that the tenant was late in paying rent in August of 2006 and December of 2008. The tenant did not dispute that he was late in paying rent on these two occasions. In deciding whether the above described late payments would constitute a cause for ending tenancy, I am guided by Residential Tenancy Policy Guideline #38. This Policy Guideline states that three late payments are the minimum number sufficient to justify a notice to end tenancy. Accordingly, I

find that the tenant's two late rent payments do not constitute sufficient ground to warrant an end to tenancy.

The landlord said that the tenant knowingly gave false information to prospective purchaser of the rental unit. Specifically, in 2006, the tenant tried to sell his rental unit to AT, the building manager. The tenant denied he had ever tried to sell his rental unit. When asked if AT intended to provide testimony with respect to his allegation, the landlord replied "no". In the absence of any supporting evidence, I find that the landlord has not proven his allegation in this regard.

The landlord said that the tenant has engaged in illegal activity that has adversely affected his quiet enjoyment, security, safety and physical well being. As well, such activity has jeopardized his lawful right or interest. Specifically, the landlord said that the tenant has fabricated accusations against him on several occasions. On one occasion, the tenant accused the landlord of stealing a check for \$25,000.00 from him and made an application to the Residential Tenancy Branch on this matter under file #728606. In submitted documentary evidence, the tenant also accused the landlord of deliberately creating floods in the building by banging on pipes with a hammer; causing damages to the building by not completing repairs; and knocking on tenants' door and then hid. As well, the tenant has made derogatory remarks with respect to the landlord's ethnic background, religion and educational level. While the tenant's unproven accusations and derogatory remarks might have been a source of frustrations for the landlord, there is no evidence to indicate that these activities are illegal. Accordingly, I find that the landlord has not proven that the tenant has engaged in illegal activity.

Conclusion

Based on the above, I find that the landlord has not proven any of the grounds enumerated in his notice to end tenancy for cause. I therefore cancel the

landlord's notice to end tenancy dated December 18, 2008 and the tenancy is to continue. The tenant is entitled to recovery of the \$50.00 filing fee, which he may deduct from the next month's rent.