



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant pursuant to Section 47 of the *Residential Tenancy Act* for an order to cancel the notice to end tenancy for cause, which was served on the tenant on December 19, 2008 with an effective date of January 31, 2009. The tenant applied for dispute resolution on December 26, 2008.

The tenancy started on September 01, 2008 and the rent is \$800.00 payable in advance on the first day of each month. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues

Does the landlord have cause to end tenancy?

Background and Evidence

The landlord testified that the notice to end tenancy for cause was issued to the tenant for the following reasons:

- Tenant has seriously jeopardised the health or safety of another occupant;
- Tenant has put the landlord's property at significant risk;

The landlord testified that the tenant rents the basement of the rental unit and the occupants of the upper level have complained about the smoking habits of the tenant.

The landlord also stated that the tenant does not dispose of garbage in a timely manner which puts the landlord's property at risk with regard to a rat infestation.

The tenant stated that the tenant has never smoked inside the unit and since the notice to end tenancy, smokes off the property.

The tenant also stated that the tenant has missed putting out the garbage on the scheduled day, but has compensated by taking it to his place of work for disposal. The tenant stated since the notice to end tenancy was served on the tenant, the tenant has disposed of garbage in a timely manner either by placing it on the curb or taking it to the tenant's workplace for disposal.

The landlord agreed that the tenant has made efforts to comply with the terms of the tenancy agreement since the tenant was served with the notice to end tenancy.

Analysis

Pursuant to section 63 of the *Act*, during the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute. Specifically, it was agreed as follows, that:

- The tenant will not smoke inside the rental unit or on the outside property. The tenant will smoke off the rental property.
- The tenant will dispose of garbage in a timely manner by placing a sealed garbage can on the curb for pick up by the City services, on the assigned day.
- The landlord will allow the tenancy to continue, based on the above commitments made by the tenant.
- The parties will exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive landlord – tenant relationship.

Conclusion

Based on the agreement between both parties, the notice to end tenancy for cause is set aside and the tenancy will continue.

Dated January 29, 2009.
