



Dispute Resolution Services

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

Dispute Codes:

CNC

Introduction

This hearing was scheduled in response to the Tenants' Application for Dispute Resolution, in which the Tenants have made application to set aside a Notice to End Tenancy for Cause.

The Tenant stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing on the Landlord on January 10, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Landlord did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Act*, should be set aside.

Background and Evidence

The Tenant stated that he submitted a copy of the Notice to End Tenancy, however it is not in evidence before me. He stated that he received the Notice to End Tenancy for Cause on January 02, 2009. He stated that the only reason for ending that tenancy that was stated on the Notice to End Tenancy was that the Tenant has allowed an unreasonable number of occupants in the unit.

The Landlord did not attend the hearing in support of the Notice to End Tenancy.

The Tenant stated that the Landlord knew he would be living in the rental unit with his wife and two children. He stated that he moved into the rental unit on September 01, 2008 and that his third daughter moved into the rental unit with them on October 08, 2008. He stated that this rental unit has three bedrooms, and he does not believe it is unreasonable to have five people occupy the rental unit.

Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has provided insufficient evidence to show that there are an unreasonable number of people occupying the rental unit. In reaching this conclusion I was strongly influenced by the testimony of the Tenant, who stated that this three bedroom rental unit is occupied by five people. In the absence of evidence that establishes that this is an unreasonable number of people, I find that it is not unreasonable.

Conclusion

As I have determined that the Landlords has submitted insufficient evidence to establish that he has grounds to end this tenancy pursuant to section 47(1)(c) of the *Act*, I hereby set aside the One Month Notice to End Tenancy, and I order that this tenancy continue until it is ended in accordance with the *Act*.