



Dispute Resolution Services

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

Decision

Dispute Codes: CNC, OLC

Introduction

This hearing dealt with the tenant's application to cancel a *1 Month Notice to End Tenancy for Cause* and an Order for the landlord to comply with the Act, regulations or tenancy agreement. Both parties appeared at the hearing and were provided the opportunity to be heard and respond to the other parties' submissions.

Issue(s) to be Decided

1. Whether the Notice to End Tenancy served upon the tenant is valid and enforceable.
2. Whether the tenant has established that the landlord has violated the Act, regulations or tenancy agreement.
3. Mutually agreeable terms to resolve the dispute between the parties.

Background and Evidence

The tenant rents a room in the basement level of the house owed by the landlord. The tenant shares a kitchen in the basement with three other tenants. The landlord resides on the main level of the house and the landlord's son, who represented the landlord at today's hearing, resides on the 3rd floor of the property.

On or about January 25, 2009 the landlord taped a Notice to End Tenancy on the tenant's door. The tenant provided the document as evidence for the hearing. The first page of the Notice indicates that the document is a *1 Month Notice to End Tenancy for*

Cause. The second page of the document is the second page of a *10 Day Notice to End Tenancy for Unpaid Rent*. The parties agreed that the tenant has paid rent. The landlord confirmed that the landlord intended to end the tenancy for cause in serving the tenant with a Notice to End Tenancy on January 25, 2009.

The tenant alleges that the landlord and landlord's son has been harassing him by making too much noise on the floor above him, banging on the door and threatening him when he leaves his room. The landlord and the landlord's son denied that they have been harassing the tenant and testified that the police have been called to the rental unit 7 times because of the tenant's behaviour. The tenant confirmed that he had been arrested once by the police after he called 911 and that he could provide no witnesses to the allegedly harassing behaviour of the landlord or the landlord's son.

As the landlord had not issued a valid Notice to End Tenancy I found that it was of no effect on the tenant and set it aside. During the hearing, I attempted to facilitate a mutually agreeable resolution to the dispute between the parties. The parties were in agreement that they would mutually agree to end the tenancy as of June 30, 2009 and the tenant would vacate the rental unit by June 30, 2009. The parties were reminded of their obligation to not unreasonably disturb or interfere with the other party. The parties agreed to live peacefully at the residential property during the remainder of the tenancy.

Analysis

As found during the hearing, the Notice to End Tenancy dated January 25, 2009 does not comply with the Act and is invalid and unenforceable. Therefore, the Notice is set aside with the effect that this tenancy shall continue until June 30, 2009. The tenancy ends on June 30, 2009 by mutual agreement between the parties which I have accepted and make legally binding upon both parties. For clarity, the tenant must vacate the rental unit no later than June 30, 2009.

As explained to the parties during the hearing, the party making a claim against the other party has the burden to prove their claim. As I found the landlord's son's testimony to be credible, I did not find the disputed verbal testimony of the parties to be sufficient to conclude that the landlord or the landlord's son have been harassing the tenant. Therefore, I make no order for compliance against the landlord and I dismiss this portion of the tenant's application.

Conclusion

The Notice to End Tenancy dated January 25, 2009 is set aside. The parties mutually agreed to end the tenancy as of June 30, 2009 and the tenant must vacate the rental unit by that date. The tenant's request for an Order for the landlord to comply with the Act, regulations or tenancy agreement is dismissed.

March 12, 2009

Date of Decision

Dispute Resolution Officer