

## **DECISION and ORDER**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to cancel a one month Notice to End Tenancy issued for alleged cause by the Landlord.

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 to me.

### Issues(s) to be Decided

Is the Notice to End Tenancy valid, or should it be cancelled?

### Background and Evidence

The parties entered into a written tenancy agreement for the rental unit, to begin on October 1, 2007. The monthly rent is \$700.00 and a security deposit of \$200.00 was paid to the Landlord.

The Tenant claims the Landlord went to her in early May of 2009, and told her he was raising the rent by \$250.00 per month because of the utilities she was using.

The Tenant informed the Landlord that such a rent increase was not allowed under the Residential Tenancy Act.

On June 19, 2009, the Landlord's agent served the Tenant personally with a one month Notice to End Tenancy, effective on July 31, 2009, indicating the causes that the Tenant had allowed an unreasonable amount of people to occupy the unit and that the Tenant had seriously jeopardised the health and safety of another occupant or the Landlord.

In the hearing the Landlord testified the Notice to End Tenancy was issued because the Tenant now had another person living in the unit with her and that she had an unlicensed vehicle parked on the property of the rental unit.

The Agent for the Landlord, his son, said he had a verbal agreement with the Tenant that only her and her son were allowed to live in the rental unit. He further testified she had the use of only one parking stall at the unit but had three vehicles there.

The Tenant explained that one of these vehicles was being removed to the scrap yard this week, and that in any event, no discussion about parking stalls had ever occurred with the Agent for the Landlord.

The Tenant testified that at the outset of the tenancy she dealt with the Landlord's wife, who entered into the written agreement with the Tenant. The Tenant testified that the wife had told her where the parking was for the Tenant to use.

In evidence the Tenant also supplied copies of the written agreement entered into by the Tenant and the Landlord's wife. In this agreement the number of occupants allowed in the unit was listed as four. The agreement sets out that it is a two bedroom unit, although the Landlord argued it is not a two bedroom unit.

The Agent for the Landlord argued that the agreement was meant for another unit at the rental property, and in support of this showed that the number of bedrooms in the rental unit had been changed by handwriting from 3 to 2 bedrooms.

The Landlord failed to provide any testimony on how the Tenant has seriously jeopardised the health or safety of another occupant or the Landlord.

Lastly, I note that at the outset of the hearing I asked both parties who would be testifying during the hearing. The Landlord replied only his son would be joining the hearing, which did occur. Later in the hearing, the Landlord attempted to have his wife testify. I did not allow this testimony, since the Landlord's wife had been present throughout the hearing and had been heard discussing the evidence with her husband during the course of the hearing.

### Analysis

I find that the Tenant has not breached the tenancy agreement or the Act, as there are only three occupants in the rental unit. I also find there was insufficient evidence to show the Tenant has seriously jeopardised the health or safety of an occupant or the Landlord.

The Landlord supplied the tenancy agreement to the Tenant. Although the number of bedrooms had been changed, no one altered the amount of four occupants allowed in the unit.

Regardless, the Tenant has only one other person living with her, her new husband, so there are a total of three people living there. The Tenant did explain that the children of the husband do come to visit every second weekend, but they are not living there.

The problem vehicle will be removed this week.

Therefore, based on the foregoing, the testimony and evidence, and on a balance of probabilities, **I find that the Notice to End Tenancy is not valid and order that it is cancelled. The Notice to End Tenancy is not valid and it is of no force or effect.**

### Conclusion

The Notice to End Tenancy is cancelled and is of no force or effect.

As the Tenant was successful, she is awarded the filing fee for her Application.

The Tenant may deduct \$50.00 from one month of rent.

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: July 20, 2009.

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Dispute Resolution Officer