



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

CNC

Introduction

This hearing dealt with an application by the tenant to dispute a one month Notice to End Tenancy for Cause.

Both parties appeared for the hearing, gave affirmed testimony and were provided the opportunity to present their evidence oral and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Should the one month Notice to End Tenancy for Cause be set aside?

Background and Evidence

The tenant was served with a one month Notice to End Tenancy for Cause on May 25, 2009 on the basis that the tenant or a guest permitted by the tenant, has significantly or unreasonably disturbed another occupant, jeopardized the health and safety of another occupant or the landlord or has put the landlord's property at significant risk.

The landlord alleges that the tenant is harbouring pets contrary to the terms of the tenancy agreement. The landlord acknowledged that this was a previous complaint which resulted in a one month Notice to End Tenancy being served on the tenant earlier in 2009. The landlord also acknowledged that after inspecting the rental unit that notice was withdrawn as there was no evidence that the tenant was harbouring pets.

The landlord stated that a second notice was issued due to continued complaints. He brought forward two witnesses who testified in the hearing and were cross examined. Both the witnesses alleged that the tenant has pets in her rental unit and whenever there is an attempt to catch her with them, she is able to pass the pets over a fence to the neighbour.

The tenant challenged the allegations of the landlord's witnesses' and denied the claim that she is harbouring pets in the rental unit. The tenant pointed out several inconsistencies in the witnesses' evidence, including references to pets that have past away over a year ago. Although the tenant acknowledged that her parents brought their

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pets over while visiting (over a year ago), this has not occurred since she received a warning. The tenant also brought out evidence showing there had been repeated inspections of the rental unit by the landlord, the police and another agency which were unannounced and on all those occasions no evidence was ever discovered to corroborate the allegations of the landlord's witnesses.

Analysis

I grant the tenant's application and set aside the one month Notice to End Tenancy for Cause.

The only evidence the landlord had in support of this notice was the allegations of the witnesses. I have considered the statements of the witnesses' and find that their testimony was not very reliable. I found the witnesses' evidence to be vague, inconsistent and in some respects unlikely.

I prefer and rely on the evidence of the three or four unannounced inspections, at which the landlord conducted at least two, where no evidence of a pet was ever discovered. If the witnesses' evidence or allegations had any merit I am satisfied on the balance of probabilities that at least one of the four inspections would have produced some evidence to support the claims that the tenant was harbouring a pet or pets.

The landlord has the burden of proving his allegations and providing evidence in support of the notice. In the absence of any evidence to support the notice I set it aside.

This tenancy will continue with full force and effect.

Conclusion

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*. The tenant's application has been granted and the one month Notice to End Tenancy for Cause is set aside.

Dated: July 22, 2009.

Dispute Resolution Officer