



Dispute Resolution Services

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

Decision

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application from the tenants for cancellation of the landlord's 1 month notice to end tenancy for cause, and recovery of the filing fee. One of the two tenants and the tenants' agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the landlord did not appear.

Issues to be decided

- Whether the tenants are entitled to either or both of the above

Background and Evidence

There was no written tenancy agreement in evidence for this month-to-month tenancy which has been ongoing for approximately 4 or 5 years. It is understood that rent in the amount of \$715.00 is payable on the first day of the month, and that a security deposit in a presently unconfirmed amount was collected at the start of tenancy.

The landlord issued a 1 month notice to end tenancy for cause dated May 29, 2009. A copy of the notice was submitted into evidence. The date shown on the notice by when the tenants must vacate the unit is June 30, 2009. Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The landlord provided no documentary evidence in support of the notice and, as earlier stated, the landlord did not attend the hearing in order to provide testimony. While both tenants presently continue to reside in the unit, the tenants' agent stated that efforts are underway to assist one of the tenants to find alternate accommodation.

Analysis

Based on the documentary evidence and undisputed testimony of the tenant, I find that the tenants were served with a 1 month notice to end tenancy for cause. The tenants applied to dispute the notice within 10 days after receiving it. In the absence of any evidence whatsoever from the landlord in support of the notice, I hereby cancel the notice. The tenancy therefore continues in full force and effect.

As for their application to recover the filing fee, I order that the tenants may withhold the amount of \$50.00 from the next regular payment of monthly rent.

Conclusion

Pursuant to the above, I order that the tenants may withhold **\$50.00** from the next regular payment of monthly rent.

DATE: July 15, 2009

Dispute Resolution Officer