

Dispute Resolution Services

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

Decision

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Has the landlord reinstated the tenancy?

Background and Evidence

The parties agreed that on June 22 the tenant was personally served with a one-month notice to end tenancy for cause, which had an effective date of July 31. The parties further agreed that the tenant paid rent for the month of August which was accepted unconditionally.

Analysis

Because the landlord accepted rent for a period of time after the effective date of the notice, I find that the tenancy has been reinstated. The fact that the parties had a dispute resolution hearing scheduled to deal with the notice to end tenancy did not absolve the landlord of his responsibility to clearly indicate to the tenant the conditions, if any, upon which rent was accepted. It was open to the landlord to accept rent for use and occupation only and he chose not to qualify the acceptance in any way. As the tenancy has been reinstated, it is unnecessary to address whether the landlord has grounds to end the tenancy. I find the notice to end tenancy dated June 22 to be void and of no force and effect. The landlord is free to issue another notice to end tenancy.

Conclusion

I find that the tenancy has been reinstated and the notice to end tenancy is therefore void.

Dated August 11, 2009.
