



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 by the tenant to cancel a notice to end tenancy for cause. One of the two tenants and the landlord participated in the teleconference hearing.

The landlord submitted photographic evidence but did not provide a copy of those photographs to the tenant. I accordingly did not admit or consider those photographs as evidence in reaching my decision in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy began on April 1, 1999. The tenancy agreement contains a clause regarding parking that reads as follows: "A passenger car only, and no other vehicle shall be parked on the property and no vehicle shall be repaired thereon, unless authorized by the owner or agent."

For approximately the past two years, the tenant has parked an uninsured truck in his parking spot on the property. On two occasions the landlord verbally asked the tenant to move the truck, but the tenant did not do so. Then on July 28, 2009 the landlord gave the tenant a written notice to move the truck. Again the tenant did not comply. On August 31, 2009, the landlord served the tenant with a one month notice to end tenancy

for cause. The reason for ending the tenancy, as cited in the notice, was that the tenant failed to comply with a material term and did not correct the breach within a reasonable time after receiving the landlord's written notice to comply.

The landlord submitted that the clause in the tenancy agreement ought to be interpreted to require that any vehicle the tenant has parked in his parking spot on the property ought to be operable and insured, so that the landlord does not risk incurring any liability for an uninsured vehicle on his property.

The response of the tenant was that the clause in the tenancy agreement says nothing about whether or not the vehicle must be insured, and he has not been repairing the vehicle on the property.

Analysis

I find that the tenant has not breached a material term of the tenancy agreement. If the landlord intended for the tenant's vehicle to be operable and insured, the tenancy agreement ought to have clearly stated those requirements. I therefore find that the notice to end tenancy is not valid.

Conclusion

The notice to end tenancy is cancelled, with the effect that the tenancy continues.

As the tenant's application was successful, he is entitled to recovery of the \$50 filing fee for the cost of his application. The tenant may deduct that amount from his next month's rent.

Dated October 19, 2009.