

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the Tenant to cancel a one month Notice to End Tenancy issued to her by the Landlord.

The Tenant served the Landlord by registered mail, sent on September 18, 2009, deemed under the Act to be received five days later. The Advocate for the Tenant had a conversation with the Landlord regarding the Notice of Hearing and Application for Dispute Resolution following this. I find that the Landlord has been duly served under the Act.

Nevertheless, the Landlord did not participate in the hearing, and it proceeded with the Tenant and her Advocate providing affirmed testimony and evidence.

Issues(s) to be Decided

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

Background and Evidence

The Tenant and the Landlord entered into a written, fixed term tenancy agreement in July of 2009.

On September 14, 2009, the Landlord issued the Tenant a one month Notice to End Tenancy, alleging the subject rental unit must be vacated to comply with a government order.

The evidence submitted indicates that the rental unit is on the upper floor of an illegal fourplex unit. The zoning in the area only permits a duplex. The local municipality has issued the Landlord an order to convert the fourplex back into a duplex, by eliminating the two lower units.

Analysis

Based on the foregoing, the testimony and evidence, and on a balance of probabilities, I find that the Notice to End Tenancy should be cancelled.

The order from the municipality does not require the subject rental unit to be vacated. The order only requires the lower units to be vacated.

Therefore, I order that the one month Notice to End Tenancy dated September 14, 2009, be cancelled and it is of no force or effect.

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: November 03, 2009.

Dispute Resolution Officer