



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNC

Introduction

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Preliminary Matter

At the start of the hearing the landlord was asked to have her witness leave the room until his testimony was required. The tenant then became upset and explained that the landlord's witness was at their rental unit causing a disturbance. I could hear loud voices in the background and asked the landlord to leave the hearing, in order to intervene with her witness. I explained to the landlord that her witness's interference with the tenant during this hearing would impact my assessment of the witness' credibility. The witness did not testify.

Issue(s) to be Decided

Should the 1 Month Notice to End Tenancy for Cause issued on January 2, 1020 be cancelled?

Background and Evidence

This tenancy commenced 7 years ago; this landlord assumed responsibility for the rental unit 3 years ago.

During the hearing the parties agreed to the following facts:

- That on December 14, 2009 a fire occurred on the deck of the rental unit;
- That this fire was accidentally caused by the tenant;
- That the tenant has accepted responsibility for the fire and has offered to pay for necessary repair of the deck; and
- That on January 2, 2010 a 1 Month Notice to End Tenancy was served to the tenant which indicated that tenant had seriously jeopardized the health or safety of the landlord and other occupants, that the tenant had put the landlord's property at significant risk and that the tenant had engaged in illegal activity that damaged the landlord's property.

During the hearing the landlord did not offer any evidence of illegal activity on the part of the tenant.

The parties did not agree on the date the landlord was made aware of the fire, but by at least December 16, 2009 she was made aware of the damage and the cause of the fire. Over two weeks later the landlord issued the Notice to End Tenancy as she felt the tenant had been dishonest and felt that if the tenant had immediately informed her on December 14, 2009, she would not have issued the Notice.

The tenant has accepted responsibility for the fire that was ignited by a candle placed in a flower pot on the outside deck. Photographs submitted as evidence show damage to the deck floor, the wall and ceiling of the deck.

Analysis

During the hearing I determined that the Notice was of no force or effect. I based this decision on the testimony of the landlord who confirmed that it was the 1 or 2 day delay in discovering the fire that caused her to issue the Notice; not any fear for her property, but based on a lack of trust. I found that this did not form an adequate basis to end the tenancy. The tenant has admitted this accidental fire occurred and has committed to paying the cost of restoring the deck area to its original state.

During the hearing discussion took place in relation to methods of communication between the parties, terms of tenancy agreements and how they may be altered, access to rental units by the landlord and the need for tenants to respect each other's right to quiet enjoyment of their respective rental units.

A copy of the Guide for Landlords and Tenants in British Columbia has been included with this decision for reference by each party.

Conclusion

As I have determined that the landlord has submitted insufficient evidence to establish that they have grounds to end this tenancy pursuant to section 47(2)(d)(i) of the Act, I hereby set aside the One Month Notice to End Tenancy, dated January 2, 2010, and I order that this tenancy continue until it is ended in accordance with the Act.

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: February 18, 2010.

Dispute Resolution Officer