

DECISION

Dispute Codes CNL

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by registered mail that was mailed on March 13, 2010, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have a Section 49 Notice to End Tenancy for landlord use cancelled.

Background and Evidence

On March 6, 2010 the tenant received a two month Notice to End Tenancy for landlord use.

The applicant/tenant testified that:

- She has signed a fixed term tenancy agreement that was presented to her by the landlord with the fixed term ending on the 31st day of August 2010.
- The landlord did not sign the fixed term tenancy agreement, however it was filled out by the landlord and presented to the tenant for her signature.

The applicant/tenant is therefore requesting that the Notice to End Tenancy be cancelled as it is her belief that the landlord is bound by the tenancy agreement which does not end until August 31, 2010.

Analysis

It is my decision that the landlord is bound by the fixed term tenancy agreement even though she failed to sign the tenant's copy of the agreement. The tenant has supplied copies of e-mails from the landlord that show the landlord's intention to sign a fixed term tenancy agreement with the tenant, and I accept the tenant's testimony where she states that it was the landlord who filled out the fixed term tenancy agreement and presented it to her to sign.

I landlord cannot end a fixed term tenancy before the end of the term simply by giving a two month Notice to End Tenancy for landlord use, and therefore, although I will not set aside the Notice to End Tenancy, I have amended the end of tenancy date to August 31, 2010.

Conclusion

The application to have a section 49 Notice to End Tenancy cancelled is dismissed without leave to reapply; however the end of tenancy date is August 31, 2010, and not May 4, 2010, as stated on the Notice to End Tenancy.

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: March 25, 2010.

Dispute Resolution Officer