

DECISION

Dispute Codes CNC, FF, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attending by the tenant and two agents for the landlord.

The tenant had noted "other" on his application, I clarified with him at the start of the hearing that he checked that box in error. The tenant's application was amended to exclude "other".

At the outset of the hearing the landlord testified that he had submitted evidence to the branch a couple of weeks prior to the hearing. Although there is a note on the file that the evidence was received by the branch, the evidence itself was not in the file. The tenant also indicated that he had not received the evidence.

The landlord indicated he had forwarded the evidence to the tenant via registered mail and provided a tracking number. The tenant confirmed that regardless he wanted to continue with the hearing. I am satisfied the landlord served the evidence to the tenant in compliance with Section 89 of the *Residential Tenancy Act*.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 47, 67, and 72 of the *Act*.

Background and Evidence

The tenant submitted a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on March 30, 2010 with an effective vacancy date of April 30, 2010 citing the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord and jeopardize a lawful right or interest of another occupant or the landlord.

The landlord testified the tenant had caused problems of disturbing neighbours since the tenancy began in 2007 and that they have provided the tenant with many warnings since that time. The landlord did not identify any illegal activity that the tenant had engaged in.

Analysis

Section 47 of the Act allows a landlord to end a tenancy if the tenant has engaged in illegal activity that has adversely affected or is likely to affect the quiet enjoyment, security, safety or physical well being of another occupant or has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The landlord has failed to provide any evidence that the tenant engaged in any illegal activity warranting a valid reason to end tenancy for cause, as such, I grant the tenant's application and cancel the 1 Month Notice to End Tenancy for Cause issued on March 30, 2010.

Conclusion

Based on the findings above, I find the tenancy is in full force and effect.

I find the tenant is entitled to recovery of his filing fee in the amount of \$50.00 and order that he may reduce his next rent payment by this amount in satisfaction of this claim, in accordance with Section 72(2)(a).

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: April 22, 2010.

Dispute Resolution Officer