

DECISION

Dispute Codes: CNC and FF

Introduction

This application, brought by the tenant seeking to have set aside a one-month Notice to End Tenancy for cause served on February 18, 2010 and setting an end of tenancy date of April 1, 2010.

Issue(s) to be Decided

This matter again requires a decision on whether the Notice to End Tenancy of February 18, 2010 should be upheld or set aside.

Background and Evidence

This tenancy began January 16, 2010 although the tenant has lived in units administered by the landlord housing society for 12 years. Rent is \$671 per month and the landlord holds a security deposit of \$500 paid on July 15, 2000.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served after the tenant had reported to the landlord that she had seen the son of her guest set fire to a cardboard box.

The parties concurred that the landlord had agreed to withdraw the Notice to End Tenancy if the guest and the guest's son were to leave the rental unit by March 1, 2010. In fact, the guests left on February 25, 2010.

However, the landlord subsequently heard from another youth that he had seen the tenant's 15-year old son attempting to light bic lighters. Over concern for the safety of residents, the landlord decided to proceed with the Notice to End Tenancy. The landlord said he had also researched the tenant's file and found other reports of incidents involving the tenant's son, incidents about which the tenant said she had not been advised.

As to the more recent report, the tenant stated that she had had conflict with the family of the youth who made the report due to their erroneous assumption that she had reported them to children and family officials, and she believed the report was an unfounded act of retaliation.

The tenant submitted three letters from neighbours attesting to the reliability and sound character of her son.

The tenant notes that the landlord is seeking to end the tenancy on an incident that is alleged to have taken place after the Notice to End Tenancy was served.

Analysis

Section 47 of the *Act* provides that a landlord may issue a Notice to End Tenancy for cause if, among other reasons, a tenant or person permitted on the property by the tenant has jeopardized the safety of other occupants or put the landlord's property at risk.

In this matter, taking into account:

1. the length of this tenancy with minimal problems;
2. the fact that the tenant acted responsibly in reporting the first incident;
3. the landlord's initial agreement to withdraw the notice;
4. the fact that the landlord reinstated the notice on information received after it had been issued and withdrawn;
5. the possibility that the last report was retaliatory;
6. the letters from three neighbours in praise of the tenant's son;
7. the shortage of concrete evidence from the landlord;

I find that the landlord has not proven threat to safety or risk to the landlord's property and the Notice to End Tenancy of February 18, 2010 should be set aside.

However, I find that the landlord had sufficient cause to issue the Notice to End Tenancy in the first instance that the tenant should remain responsible for her own filing fee.

Conclusion

The Notice to End Tenancy of February 18, 2010 is set aside and the tenancy continues.

April 1, 2010