

DECISION

Dispute Codes

CNC, FF

Introduction

This is the Tenants' application to cancel a One Month Notice to End Tenancy issued March 31, 2010; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony and this matter proceeded on its merits.

Background and Evidence

The rental contains two bedrooms and is approximately 1,000 square feet. At the beginning of the tenancy, the Tenant YG was the sole Tenant. The Landlord testified that it was clear on the tenancy agreement that the rental unit would be occupied by only one tenant. The Landlord testified that they had a verbal agreement that, should anyone else move into the rental unit, an additional amount of \$200.00 per month would be charged. The Tenant YG disputed that they had this verbal agreement.

The Tenant's brother, Tenant EK, moved into the rental unit with the Tenant YG approximately a year into the tenancy, along with his dog. The Landlord requested additional rent from the Tenant YG, but the Tenant YG did not agree to pay more rent. The Landlord testified that he did not agree to allow a dog on the rental property. The Landlord testified that on February 28, 2010, he provided the Tenant YG with written notice to remove the Tenant EK from the rental unit by the end of March, 2010, or the tenancy would end on April 30, 2010.

The Tenant EK moved out of the rental unit on May 22, 2010. The Tenant YG remains in the rental unit.

Analysis

On the Notice to End Tenancy, which is the subject of the Tenants' application, the Landlord seeks to end the tenancy for the following reasons:

- The Tenant YG has allowed an unreasonable number of occupants in the rental unit; and
- The Tenant YG has assigned or sublet the rental unit without the Landlord's written consent.

I do not find that two tenants are an unreasonable number of tenants in a 2 bedroom, 1,000 square foot rental unit. Therefore the Landlord has not established that the Tenant YG has allowed an unreasonable number of occupants in the rental unit.

The Tenant YG did not assign or sublet the rental unit. Therefore the Landlord has not proven the second reason for ending the tenancy.

The Landlord did not include any other reasons to end the tenancy on the Notice to End Tenancy (i.e. breach of a material term that was not corrected within a reasonable time after written notice to do so). The Landlord has not established either of the causes to end the tenancy which were provided on the Notice to End Tenancy, and therefore the Tenants' application is granted. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the *Residential Tenancy Act* (the "Act").

The Tenants have been successful in their application and are entitled to recover the cost of the filing fee from the Landlord. Pursuant to the provisions of Section 72 of the Act, the Tenant YG may deduct \$50.00 from future rent due to the Landlord.

Conclusion

The Notice to End Tenancy issued March 31, 2010 is hereby cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant YG may deduct \$50.00 from future rent due to the Landlord.

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: May 25, 2010