

DECISION

Dispute Codes MT, CNC

Introduction

This hearing was convened by way of conference call on this date to deal with the tenant's application to allow a tenant more time to make an application to cancel a Notice to End Tenancy and to cancel a Notice to End Tenancy for cause. The tenant gave affirmed testimony.

The hearing commenced at 1:30 p.m. and the landlords were not in attendance. The hearing was convened in their absence, after waiting 10 minutes for the landlords to dial into the conference call hearing.

Issues(s) to be Decided

Is the tenant entitled to an order cancelling the notice to end tenancy?

Background and Evidence

This month-to-month tenancy began on October 1, 2008. The tenant pays rent in the amount of \$850.00 per month, due on the 1st day of each month, and there are no rental arrears. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$425.00.

The tenant testified that that he was served personally with a Notice to End Tenancy, a copy of which was provided in advance of the hearing, on April 7, 2010. That form is a form that was used by the Residential Tenancy Branch but has been replaced by another version. The form provided is a 4-page form which is dated and signed but does not contain enough information to justify cause for the notice to be issued. The tenant testified that the landlord did not have cause to evict him. The notice states as follows:

“Abuse to the premise (broken window, stove, hole the in door. Verbal abuse to landlord. To many people hanging around (day & night). Parties.”

The tenant testified that a window had been broken accidentally when he opened the barbeque and the lid hit the window cracking it. He further testified that the window was in his son’s bedroom, and that the landlords did not replace it for approximately 2 weeks. As for the stove, the tenant testified that the element in the oven had split and that it was no fault of his own. He also denies having any parties in the unit.

The tenant further testified that an altercation had taken place, whereby the landlord struck the tenant, the police were called, but the police did not press charges of assault against the landlord and told the tenant that if it happened again to call them.

After I had verbally rendered my decision to cancel the notice to end tenancy, the landlord dialled into the conference call hearing.

Analysis

I find that the landlords had knowledge of the date and time of the hearing and did not attend at the time indicated on the notice of hearing.

With respect to the form and content of the notice to end tenancy, Section 52 of the *Residential Tenancy Act* states as follows:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant’s notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

I find that the form used is not the form approved by the Director, however, I do find that the contents of the form used satisfy the requirements of Section 52 of the *Act*. In the absence of any evidence from the landlords, I cannot uphold the notice to end tenancy, and therefore, I must cancel it. The landlords are at liberty to re-serve a notice to end tenancy if they feel that cause is justified.

Conclusion

The notice to end tenancy is hereby cancelled.

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: June 16, 2010.

Dispute Resolution Officer