

DECISION

Dispute Codes

CNC, FF

Introduction

This hearing dealt with an application by the tenant to cancel a One Month Notice to End Tenancy For Cause (the Notice), dated April 16, 2010. There is no dispute that the reasons stated on the Notice are:

Tenant or person permitted by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord*
- *put the landlord's property at significant risk*

Tenant has engaged in illegal activity that has , or is likely to:

- *jeopardized a lawful right or interest of another occupant or the landlord*

Both, the tenant and the landlord participated in the hearing and each participated with their testimony and submissions.

In this type of application, the burden of proof rests with the landlord to provide compelling evidence that the Notice was validly issued for the stated reasons.

Issue(s) to be Decided

Does the landlord have sufficient cause to end the tenancy?

Background and Evidence

This tenancy began February 01, 2010 as a verbal month to month tenancy. On April 16, 2010 the landlord gave the tenant the Notice to End as stated. The landlord testified that the tenant moved into his house on him vacating. The agreement with the tenant was that they would forward the landlord's mail. The tenant testified that for the first while of the tenancy they forwarded all of the landlord's mail, and then were instructed by the post office to return any mail of the landlord, back to the sender. The landlord determined this conduct of the tenant to be tampering with the landlord's mail, and thus illegal. The landlord further testified that the tenant's boyfriend threatened to take out some flooring the tenant had installed with the consent of the landlord – over a monetary dispute in the amount of approximately \$250. The landlord

called Police, who attended the rental unit. The tenant testified the Police came inside the rental unit and determined the rental unit was sound.

Analysis

On the face of the evidence and on a balance of probabilities I prefer the evidence and testimony of the tenant over the evidence and testimony of the landlord. I find the landlord has not supported their reasons for issuing the Notice to End, and therefore not met the test for issuing a valid Notice to End. I find the landlord's has not sufficiently proven his reasons for issuing the 1 Month Notice to End Tenancy. As a result, I **order** the Notice to End dated April 16, 2009 is **Cancelled** and is of no effect. The landlord is at liberty to issue a new and valid Notice to End.

As the outcome of this hearing favours the tenant, I find that the tenant is entitled to recovery of the **\$50** filing fee for this application. I **order** that the tenant may withhold this amount from future rent.

Conclusion

The 1 Month Notice to End dated April 16, 2009 is **Cancelled** and of no effect.

I **order** the tenant may withhold **\$50** from future rent.

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*.