

DECISION

Dispute Codes CNC, FF

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 attended by the tenant and the landlord.

Issues(s) to be Decided

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

Background and Evidence

The tenancy began in May of 1998 as a month to month tenancy for a current monthly rent of \$950.00 due on the 1st of the month with a security deposit of \$350.00 paid.

The tenant submitted a copy of a 1Month Notice to End Tenancy for Cause dated May 28, 2010 with an effective vacancy date of June 30, 2010 citing the tenant or a person permitted on the property at significant risk and the tenant has engaged in illegal activity that has or is likely to damage the landlord's property.

The landlord has submitted 21 photographs of the residential property, primarily the yard and the carport. The landlord testified the tenant had hung a suit from an electrical wire in the basement and with the clutter in the basement the tenant is breaching the local fire code. The landlord did not submit a copy of the local fire code as evidence.

The landlord also testified that on the long weekend in May 2010, the tenant had company for the weekend who had parked their trailer on top of the septic tank and therefore endangered the property. The tenant testified that the trailer has moved, after the weekend was over, and has not returned.

The tenant also noted in his testimony that he has parked various trailers and/or vehicles in the area of concern of the years. As shown in the pictures from the landlord the area in question appears to be a gravel extension of the driveway and parking pad for the residential property.

The tenant contends that the landlord wants the tenancy to end so that he can rent the unit at a higher rent. The landlord did not dispute this and noted that his realtor advised him that he would be able to get more rent for the unit based on the local rental market.

The landlord also noted in the hearing that the tenant often left the windows opened and if it rained he would use a ladder to close the tenant's windows. I advised in the hearing that he should not do this without the tenant's permission to enter the residential property.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy if a tenant has engaged in an illegal activity that has caused or is likely to cause damage to the landlord's property. The landlord has provided no evidence that the activity the tenant engaged in is illegal. I therefore find the landlord has failed to establish this as a cause to end the tenancy.

Section 47 also allows a landlord to end a tenancy if the tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk. The landlord has failed to provide evidence that the action taken by the tenant's guest has put his septic system at risk.

In addition, the landlord has failed to show that he provided the tenant with time to correct the situation and that the tenant failed to correct it. In fact, the tenant has corrected the situation within a reasonable time. I therefore find the landlord has failed to establish this as a cause to end the tenancy.

Conclusion

Based on the above, I find the 1 Month Notice to End Tenancy for Cause, dated May 28, 2010 to be ineffective and find the tenancy in full force and effect. I order the landlord may disregard the Notice.

I find that the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application. I order the tenant may deduct this amount from his next rent payment in satisfaction of this claim.

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: July 19, 2010.

Dispute Resolution Officer