



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, O, ET, FF

Introduction

This hearing dealt with applications by the tenant and by the landlord. The landlord applied for an early end of tenancy, an order of possession and recovery of the filing fee. The tenant applied to cancel a Notice to End Tenancy. The tenant, her advocate and the landlord's representative participated in the hearing. The tenant said in her application for dispute resolution that she was applying to cancel a notice to End Tenancy for landlord's use, but there was no evidence that the landlord had given the tenant a 2 month notice to End Tenancy for landlord's use. In the written portion of her application the tenant referred to a "ten day Notice of Eviction". The tenant said that the landlord gave her a one month Notice to End Tenancy for cause a few days after she filed her application for dispute resolution.

Issues(s) to be Decided

Is the landlord entitled to an order for possession?

Background and Evidence

The landlord testified that he purchased the rental property in January, 2010. The respondent was an existing tenant when he purchased the property. The landlord testified that since he purchased the building the tenant has yelled at him, threatened him and harassed him. He said that the tenant is hostile and abusive. He testified that the tenant has scared off prospective tenants who have attended to visit the rental unit by telling them that he is a terrible landlord. The landlord accused the tenant of illegal

drug use and of provoking disputes and harassing other tenants. He gave the tenant a written warning because she hung decorations made from CD blanks from the soffits on her balcony area. The landlord referred to evidence from prospective tenants and others, but he did not provide any third party evidence at the hearing and he did not submit any written statements as evidence.

The landlord submitted a copy of a one month Notice to End Tenancy for cause dated August 9, 2010. The Notice required tenant to move out by September 30, 2010. The notice alleged that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord and that she had engaged in illegal activity that has affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord. The grounds for the Notice to End Tenancy are the same grounds alleged to be the basis for an early end to tenancy. The tenant filed her application for dispute resolution on August 4, 2010. Apparently she considered that her application for dispute resolution would operate as a form of dispute to the landlord's one month Notice to End Tenancy.

Analysis and conclusion

Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that "it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47" (emphasis mine). I am not satisfied that this unreasonableness or unfairness exists. The landlord's testimony that the tenant has been rude and harassing was denied by the tenant. It appears there were arguments between the landlord and the tenant; both parties were engaged in the arguments. An altercation of this nature does not give rise to an extraordinary remedy such as this. The landlord alleged that the tenant has interfered with his relations with prospective tenant and has made false and derogatory remarks about him and about the rental property to them. The landlord has not provided any evidence from such persons. The tenant denied the landlord's testimony. I do not find that the events described by the

landlord are of the kind that entitle the landlord to an order for possession without giving notice and accordingly I dismiss the landlord's application for an early end to tenancy. The landlord will bear the cost of the filing fee.

The tenant has applied to cancel a Notice to End Tenancy. The only Notice to End Tenancy that has been served is the one month Notice to End Tenancy dated August 9, 2010. I amend the tenant's application for dispute resolution to refer to the August 9, 2010 Notice to End Tenancy for cause. I find that the landlord has not established on a balance of probabilities that there are sufficient grounds to uphold the Notice to End Tenancy and I order that it be and is hereby cancelled. The tenancy will continue.

This decision does not prevent the landlord from issuing another Notice to End Tenancy and serving it on the tenant if he believes there are proper grounds for such a Notice. In the event of a subsequent application for dispute resolution it will be up to the landlord to provide convincing evidence that there are grounds that would justify ending the tenancy.