

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for cause.

The Landlord and Tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Tenant entitled to an Order to cancel the Notice to End Tenancy pursuant to section 47 of the *Residential Tenancy Act*?

Background and Evidence

The Tenant testified and advised that the Landlord is her mother. She stated that she has applied to acquire a subsidized housing rental unit and requires my decision from dispute resolution to be accepted into the subsidized housing unit. She confirmed that her mother, the Landlord, initially served her with a hand written notice to end tenancy and that she was advised by the subsidized housing company that this notice would not suffice.

The Landlord confirmed that she then issued the notice to end tenancy on the approved form and backdated the document for the purposes of her daughter's application.

Neither party provided a copy of the Notice to End Tenancy as evidence for this application.

Analysis

The testimony supports that Notices were issued however the parties have failed to sufficiently prove that the Notices were ever issued, in accordance with section 47 of the Act, as they failed to provide documentary evidence in support of their testimony.

The purpose of serving documents under the *Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Landlord is seeking to end the tenancy due to this breach and the Tenant has applied to cancel the Notice; however, neither party has satisfied the burden of proving that the Tenant was served with a valid Notice.

In the absence of documentary evidence that the Notice to End Tenancy was issued, I find that the parties have failed to present the merits of their case and I hereby dismiss the application, without leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's application, without leave to reapply.

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: September 20, 2010.

Dispute Resolution Officer