



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, FF

Introduction

The tenant's apply to cancel a Notice to End Tenancy given for cause and recovery of the filing fee paid for this application.

All parties appeared at the hearing of this matter and gave evidence under oath.

Issues(s) to be Decided

Does the landlord have cause to end this tenancy?

Background and Evidence

The landlord served a Notice to End Tenancy for Cause on September 8, 2010. The tenant disputed the Notice on September 16, 2010. The Notice sets out that the landlord wishes to end this tenancy because the "Tenant has engaged in illegal activity that has, or is likely to: jeopardize a lawful right or interest of another occupant or the landlord". At the hearing of this matter the landlord's agent testified that she was acting on behalf of the landlord and she did not have the second page of the Notice to review to see upon what ground it was issued. When the ground was read to her, the agent stated that there is no evidence of an illegal activity. The agent testified that other tenants in the building believe there may be illegal activity going on and they were worried about it but the agent reiterated that she had no evidence of illegal activity.

Analysis

The landlord bears the burden of proving he/she has grounds to end this tenancy. The landlord has issued a Notice to End Tenancy stating that the tenancy must end because the "Tenant has engaged in illegal activity that has, or is likely to: jeopardize a lawful right or interest of another occupant or the landlord". However, at the hearing of this matter the landlord's agent testified that she did not have any evidence of an illegal activity. I therefore find that the landlord has failed in his/her burden of proving cause to end this tenancy.

Conclusion

The tenant's application to cancel the Notice to End Tenancy is allowed. The effect of this decision is that the Notice to End Tenancy issued on September 8, 2010 is cancelled and this tenancy shall continue.

As the tenant has been successful in this application she is entitled to recover the filing fee she has paid. To recover this sum I direct the tenant to deduct \$50.00 from her next rental payment.