



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC

Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated August 6, 2010.

The Tenant said he served the Landlord with the Application and Notice of Hearing in person on August 21, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on May 20, 2010. On or about August 6, 2010 the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated August 6, 2010. The ground alleged on the Notice was that "the Tenant has engaged in an illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord."

The Landlord filed written submissions and some written statements together with physical evidence which was a plastic baggie which appears to contain a number of hand-rolled cigarette butts. The only offence or illegal act alleged by the Landlord in those documents is that the Tenant was allegedly selling marijuana.

Analysis

RTB Policy Guideline #32 (Illegal Activities) states at p. 1 that "the party alleging the illegal activity has the burden of proving that the activity was illegal." Consequently, the Party issuing the Notice to End Tenancy (on this ground) also has the burden of proving that the illegal activity was sufficiently serious to warrant ending the tenancy or that it has had some effect on the tenancy.

The documentary evidence provided by the Landlord is hearsay evidence and is unreliable consequently I give it little weight. I also give the physical evidence



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

provided by the Landlord little weight as there is no evidence as to whether it is an illegal substance or from where it came. In the absence of any other evidence from the Landlord, I find that there is insufficient evidence to conclude that the Tenant has engaged in an illegal act and that it has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord. Consequently, the One Month Notice to End Tenancy for Cause dated August 6, 2010 is cancelled and the tenancy will continue.

Conclusion

The Tenant's application is granted. The One Month Notice to End Tenancy for Cause dated August 6, 2010 is cancelled. 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: October 05, 2010.

Dispute Resolution Officer