



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNC

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a Notice to End Tenancy for Cause.

The Tenant gave affirmed testimony at the Hearing. The Tenant testified that she personally served the Landlord's agent with the Notice of Hearing documents, in the office at the rental property, on October 19, 2010 in the afternoon.

This application was scheduled to be heard via teleconference on November 16, 2010 at 1:30 p.m. The Tenant signed into the conference on time and was ready to proceed, however by 1:40 p.m., the Landlord had not yet signed into the teleconference.

I accept the Tenant's affirmed testimony that the Landlord was duly served with the Notice of Hearing documents and the Hearing continued in the Landlord's absence.

Background and Evidence

The Tenant testified that she received the Notice to End Tenancy (the "Notice") on October 13, 2010, when it was pushed under her door at the rental unit. The Tenant provided a copy of the Notice in evidence.

The Tenant testified that she had a guest in her home one evening, and that they went outside at 1:00 a.m. but they were not being loud. The Tenant received a warning letter from the Landlord on October 5, 2010 stating that the Landlord had received complaints from other tenants about yelling and other loud noise coming from her suite. A copy of

the letter was entered in evidence. The Tenant testified that this was the first time she had heard about any complaints about noise.

The Tenant testified that on October 11, 2010, she was talking on her cell phone while walking through the lobby to her car. She stated that it was day time and that the only other person in the lobby was the Landlord's agent. The Tenant stated that she was having personal problems with an ex-boyfriend and was talking loudly and cursing on the phone.

On October 13th the Tenant received the Notice to End Tenancy. The Tenant is disputing the notice.

Analysis

The Notice identifies the following cause to end the tenancy:

The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

The warning letter dated October 5, 2010, is very vague. There are no names of complainants; dates of noise complaints; or other identifying information with respect to complaints made by other tenants in the rental property. The Tenant stated that there were no warnings from the Landlord prior to the written warning of October 5, 2010. The Landlord did not attend at the Hearing to provide testimony.

Based on the Tenant's testimony, I find that there is insufficient cause to end this tenancy and I grant the Tenant's application to cancel the Notice. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant was warned that other tenants in the building are entitled to quiet enjoyment and that the Landlord has a responsibility to his other tenants to ensure that they are provided with quiet enjoyment. The Tenant was warned that the Landlord can end the tenancy if the Tenant significantly interferes with or unreasonably disturbs other tenants or the Landlord.

Conclusion

The Tenant's application is granted. The Notice to End Tenancy issued October 13, 2010 is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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: November 17, 2010.
