



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

Some written arguments were submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The notice of hearing was posted on the respondent's door on February 5, 2011, but she did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a one month Notice to End Tenancy that was given for cause.

Background and Evidence

The applicant testified that:

- He was served with a one month Notice to End Tenancy on January 20, 2011.
- The notice stated that he is repeatedly late paying the rent, and that he is engaged in illegal activity.
- The notice has been given to him by his roommate and not his landlord.

- He has not been late with the rent, as it is paid directly from the Ministry of Human Resources, and he is not engaged in any illegal activity.

Analysis

First of all if this notice has been served by one tenant on a cotenant, then we have no authority over the matter; however the notice itself would also have no legal effect as it purports to end the tenancy under the Residential Tenancy Act, and the Residential Tenancy Act has no jurisdiction over disputes between two tenants.

Secondly if this notice has been given by one of the tenants, with the authorization of the landlord, and acting on the landlord's behalf, then the Residential Tenancy Act would have jurisdiction over the matter. If that is the case however the landlord did not appear at the hearing to present any evidence or testimony in support of the Notice to End Tenancy, and since the tenant denies paying rent late or being engaged in any illegal activity, it is my decision that the Notice to End Tenancy is cancelled.

Conclusion

The section 47 Notice to End Tenancy dated January 19, 2011 is hereby cancelled and this tenancy continues.

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: February 10, 2011.

Residential Tenancy Branch