

## **DECISION**

### **Dispute Codes:**

CNC, FF

### **Introduction**

This Hearing was scheduled to hear the Tenant's application to cancel a Notice to End Tenancy for Cause and to recover the cost of the filing fee from the Landlords.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that she mailed the Notice of Hearing documents to the Landlords at their address for service, on February 2, 2011, by registered mail. The Tenant provided the original registered mail receipt with the tracking number in evidence.

I am satisfied that the Landlords were served with the Notice of Hearing documents by registered mail. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents. Despite being served with the documents, the Landlords did not sign into the teleconference and the Hearing continued in their absence.

### **Issue to be Decided**

Should the 1 Month Notice to End Tenancy for Cause issued January 28, 2010, be cancelled?

### **Background and Evidence**

The Tenant gave the following affirmed testimony:

- The Tenant and her son live in the rental unit. Monthly rent is \$850.00. The rental unit is a 2 bedroom suite in a house. The Landlords live in the other suite.

- The Landlord served the Tenant with the Notice to End Tenancy on January 28, 2011.
- The Tenant testified that there was a little noise at Christmas time, but that the Landlord did not come down and ask her to be quiet. Other than that, the Tenant is reasonably quiet. The Tenant stated that one of the Landlords threatened her when she provided the Landlord with copies of her evidence package.
- The Tenant denied there was illegal activity taking place at the rental unit.

### **Analysis**

The Notice to End Tenancy is dated January 28, **2010** for an end of tenancy date of March 1, **2010**.

The Notice to End Tenancy gives three reasons for ending the tenancy:

- The Tenant has allowed an unreasonable number of occupants in the unit;
- The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and
- The Tenant has engaged in 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.

I do not find two people living in a 2 bedroom suite to be an unreasonable number of occupants. The Tenant denies significantly interfering with or unreasonably disturbing the Landlord, or engaging in illegal activity. The Landlords have not provided any evidence to support the Notice to End Tenancy.

Therefore, the Tenant's application is granted. The Notice to End Tenancy issued January 28, 2010, is hereby cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant has been successful in her application and is entitled to recover the cost of the \$50.00 filing fee from the Landlords. Pursuant to the provisions of Section 72 of the Act, the Tenant may deduct \$50.00 from future rent due to the Landlord.

**Conclusion**

The Tenant's application granted. The Notice to End Tenancy issued January 28, 2010, is hereby cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenant is hereby authorized to deduct **\$50.00** from future rent due to the Landlord.

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 21, 2011.

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