



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, OLC, F

Introduction

This hearing dealt with the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice"), for Orders for the landlord to comply with the Act, regulations or tenancy agreement, and to recover the filing fee. Both parties appeared at the hearing. Both parties were provided the opportunity to be heard, to respond to the submissions of the other party and to ask questions.

Issue(s) to be Decided

1. Is the Notice to End Tenancy issued to the tenant valid and enforceable?
2. Is it necessary to issue Orders to the landlord to comply with the Act, regulations or tenancy agreement?

Background and Evidence

The landlord provided affirmed testimony regarding the reasons why she gave the tenant a Notice to End Tenancy. She did not supply any evidence, such as a copy of the tenancy agreement or the Notice, in support of her Notice to End Tenancy.

I heard testimony that the tenancy began on November 1, 2010, monthly rent is \$450.00 and a security deposit of \$225.00 was paid on or about November 1, 2010.

I heard testimony from the landlord that the rental unit is a rooming house situation, with three other occupants sharing other bedrooms and there is a shared kitchen and bathroom facilities.

I heard testimony from the landlord that the Notice to End Tenancy was issued on January 29, 2011, or at the end of January, but in time for the Notice to take effect; the landlord could not testify of any specific information as she did not have a copy of the Notice with her.

As evidence of cause the landlord testified that the tenant's behaviour has disturbed the other tenants and that the tenant's dog is causing problems with the other tenants. In support of the testimony, the landlord supplied some emails from two of the other tenants, who happen to be twin sisters.

Additionally, the landlord testified that the police had to be called, but I note that it was the tenant who submitted the police report into evidence.

The tenant testified that she had been friends the twin sisters for four years and doesn't know why they have started these actions against her.

The tenant testified that the landlord happily accepted her dog when the tenancy began and that the landlord knew the breed of dog.

The tenant testified that the police were called by the sisters and that no action was required as the charges were not validated.

The tenant stated that she does not feel safe around the landlord because of the landlord's threatening behaviour, which began when she asked the landlord to not enter the rental unit without notice. The tenant stated that the landlord reacted negatively, informing the tenant she would come around when she wanted.

Analysis

Based on the foregoing, the affirmed testimony and evidence, and on a balance of probabilities, I find that the 1 Month Notice to End Tenancy for Cause should be cancelled.

I allow the Tenant's Application for Dispute Resolution, and **I order that the Notice to End Tenancy issued on or about January 29, 2011, is cancelled and is of no force or effect.**

The Landlord had insufficient evidence to establish the Tenant was served a Notice to End Tenancy; additionally, I find the testimony and evidence submitted by the Landlord, the twin sisters' emails and the presence of the tenant's dog, does not establish a cause under which to end the tenancy.

The landlord is reminded that she is to comply with the requirements of Sections 28 and 29 of the Residential Tenancy Act regarding the tenant's right to quiet enjoyment and the restriction of the landlord's right to enter the rental unit.

Conclusion

The Notice to End Tenancy issued by the landlord on or about January 29, 2011, is invalid and the 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: March 11, 2011.

Residential Tenancy Branch