



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that on February 19, 2011 the tenant was served with a one month notice to end tenancy for cause (the "Notice"). The Notice alleges that the tenant has engaged in illegal activity which has, or is likely to, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord testified that the strata council has demanded that he evict the tenant and threatened to do so themselves and visit the cost of bailiffs on him if he failed to evict her. The landlord testified that the strata council advised him that they had received complaints that the tenant was smoking marijuana and that it disturbed other occupants of the building.

The tenant denied using marijuana in the rental unit or at all.

Analysis

The landlord bears the burden of proving that he has grounds to end the tenancy. The only evidence provided by the landlord as to the tenant's use of marijuana in the unit was a letter from the strata council indicating that in November 2010, complaints had been received that the smell of marijuana was issuing from the rental unit. The landlord has no personal knowledge of the tenant having used marijuana in the unit and

provided no witnesses who could testify that they were disturbed by her alleged use of marijuana.

I find insufficient evidence to show that the tenant has engaged in illegal activity or that this activity has disturbed other occupants of the building. Accordingly I order that the Notice be set aside and of no force or effect. As a result, the tenancy will continue.

I find that the tenant is entitled to recover the \$50.00 filing fee paid to bring this application. She may deduct \$50.00 from future rent owed to the landlord.

Conclusion

The Notice is set aside. The tenant may deduct \$50.00 from future rent owed 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: March 11, 2011

Residential Tenancy Branch