



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC
 OPC, FF

Introduction

This hearing dealt with cross applications from the tenant and landlord. The application for the tenant is to cancel a notice to end tenancy for cause. The application for the landlord is to obtain an order of possession for cause and recovery if the filing fee. The tenant participated in the conference call hearing but the landlord did not. As the landlord is a cross-applicant the landlord was aware of the hearing date and time therefore the hearing proceeded in their absence.

Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

Summary of Background and Evidence

On March 21, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant's advocate stated at the start of the hearing that the tenant had not been provided with the landlord's evidence package until April 19th, 2011.

The tenant testified that he has not had any contact with the landlord since being served with the 1 month notice to end tenancy. The tenant testified that he has bought headphones to use when listening to music so that he does not disturb other tenants in the building. When asked about knocking on other tenants doors the tenant stated that he "does not bug any other tenants now". The tenant stated that the allegation of him partying was false.

Analysis

Based on the documentary evidence and undisputed testimony of the tenant and in the absence of testimony from the landlord, I find that there is insufficient evidence to

uphold the landlord's 1 Month Notice to End Tenancy for Cause. Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The landlord's application is hereby dismissed without leave to reapply.

Conclusion

I therefore allow the tenant's application and set aside the landlord's 1 Month Notice to End Tenancy for Cause dated March 21, 2011 with the result that the tenancy continues uninterrupted.

The landlord's application is dismissed in its entirety without leave to reapply.

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: April 20, 2010

Residential Tenancy Branch