



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

This conference call hearing was convened in response to the tenant's application for a cancellation of a 1 Month Notice to End Tenancy for cause.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the tenant entitled to cancellation of the notice to end tenancy in the circumstances?

Background and Evidence

The rental unit consists of single detached home divided into four rental units. The tenant occupies one of the units on the main floor. The month to month tenancy started in 2004. The monthly rent of \$385.00 is payable on the first of each month and the tenant paid a security deposit of \$175.00.

The landlord testified that he sent the tenant his documentary evidence on March 5th, 2011 however the tenant said that he did not receive it. Part of that evidence included 4 photographs taken by the landlord on April 1st, 2011 showing the condition of the rental unit. The tenant confirmed that he was present when the photographs were taken and does not dispute the landlord's description of the rooms stacked and significantly

cluttered with an array of miscellaneous items. The landlord stated that he addressed the problem with the tenant in the past without success. He said that the clutter makes it impossible to access the unit in case of an emergency, and that it is a breach of fire marshal by-laws and the terms of the tenancy agreement. He said that the problem has been ongoing for over a year, and that the tenant's failure to comply has left him no other option but to serve the 1 Month Notice to End Tenancy.

The tenant did not dispute the landlord's submissions. He testified that he is under financial hardships that prevent him from renting storage space. He stated that the condition of the suite results from a gradual accumulation of property, and that he is endeavouring to move it elsewhere. In his documentary evidence, the tenant provided 26 photographs of the property, showing other tenants' clutter on the property.

Analysis

Section 32 of the *Residential Tenancy Act* provides in part that; a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

The tenants' evidence concerning clutter in the common areas of the property does not relieve the tenant's obligation to comply with the Act and with the tenancy agreement. Based on the evidence I am satisfied that the tenant has not complied with Section 32 promptly; his unit places the property at risk, and it jeopardizes the safety of other occupants on the property.

I find that the landlord's evidence established that he had grounds to end the tenancy and I find that the 1 Month Notice to End Tenancy is valid.

Conclusion

The tenant's application is dismissed and the 1 Month Notice to End Tenancy is valid and of full force. The tenancy will end on April 30th, 2011 as specified on the notice.

The landlord did not make an oral request for an order of possession pursuant to Section 55(1) of the Act; if necessary, the landlord may make an application for dispute resolution and request an order of possession.

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 12, 2011.

Residential Tenancy Branch