



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened in response to an application filed on March 31, 2011 by the tenant to cancel a 1 Month Notice to End Tenancy for Cause dated March 29, 2011 with the causes identified as:

- *Tenant has allowed an unreasonable number of occupants on the site*
- *Tenant has assigned or sublet the rental unit/site without the landlord's written consent.*

For this type of application, the onus is on the Landlord to prove the Notice to End was issued for sufficient reasons, and that at least one reason must constitute sufficient cause for the Notice to be valid. The Landlord is not required to prove all reasons stipulated for ending the tenancy

Issue(s) to be Decided

Is there *sufficient* cause to end the tenancy?

Background and Evidence

The Tenancy began on November 25, 2010. On March 29, 2011, the Landlord served the Tenants with a 1 month Notice to End Tenancy for cause. The Landlord and Tenants provided evidence and made submissions on the causes as follows:

Unreasonable Number of Occupants

The Landlord states that a neighbour complained that there were at least 8 persons living at the unit. The Landlord could not state any other details from this neighbour or

any other neighbours and no witnesses attended the hearing. The Landlord did not have any other evidence and no first-hand knowledge himself. The Landlord further states that he did not talk about this complaint with the Tenants prior to serving them with the eviction notice and states that he has no idea how many people are living in the unit.

The Tenant states that there have been a lot of people coming and going from her unit over the last while as a documentary is being filmed about her life and her experience at an Indian Residential School. The Tenant states that no one else is living at the unit but that her brother and his wife have been staying there for the last week and will be there for another couple of weeks. The unit has 2 bedrooms and these family members are sharing one of the bedrooms and assisting the Tenant with transportation. The Tenant states that she and her husband are elderly, on disability and have fought hard to purchase the trailer and to feel safe and secure. The Tenant states that she does not understand why the Landlord has given them this Notice.

Sublet or Assignment

The Landlord states that he does not know whether the Tenants have sublet the unit but was concerned that they might as they had made some inquiries about this to him. The Tenant states that she has not sublet the unit.

Analysis

On the preponderance of the evidence provided, and on a balance of probabilities, I find that the Landlord has not substantiated the reasons for the Notice on either cause. I find therefore that the Landlord does not have *sufficient* cause to end this tenancy on the basis claimed and I hereby uphold the Tenant's application to cancel the Notice and the tenancy continues.

Conclusion

The Tenants' application is upheld. The Notice to end Tenancy is cancelled and I Order the tenancy to continue.

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 27, 2011.

Residential Tenancy Branch