



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes

CNC

Introduction

This hearing dealt with the tenant's application to cancel a Notice to End Tenancy for cause. Both parties appeared at the hearing and were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

Issue(s) to be Decided

Should the Notice to End Tenancy be upheld or cancelled?
Can the parties reach a mutual agreement to resolve this dispute?

Background and Evidence

The tenancy commenced December 2009 and the tenant has been paying rent of \$575.00 on the 1st day of every month for a one bedroom unit with utilities included. At the commencement of the tenancy the rental unit was occupied by the tenant and her daughter. Starting January 25, 2011 the tenant's son began residing in the rental unit. The landlord served the tenant with a Notice to End Tenancy by leaving it in the tenant's mailbox on March 16, 2011.

The parties were in dispute as to whether the tenant is permitted to have additional occupants in the rental unit, when the landlord learned that a third person was occupying the rental unit and whether three people in the unit is an unreasonable number of occupants. However, during the hearing the parties were able to reach a mutual agreement to resolve this dispute which I have recorded below. The parties agreed as follows:

1. the Notice to End Tenancy shall be withdrawn and the tenancy shall continue;
2. the tenancy agreement is amended to reflect that the amount of monthly rent payable by the tenant will vary depending on the number of occupants residing in the rental unit:

3. the amount of rent payable under the tenancy agreement is based upon two occupants residing in the rental unit and for each month there is more than two occupants the tenant will pay to the landlord an additional \$60.00;
4. The base rent of \$575.00 and the additional occupant charge of \$60.00 are subject to annual rent increases as provided by the Act and the Residential Tenancy Regulations;
5. The tenant shall pay the landlord \$191.61 by April 20, 2011 for the additional occupant residing in the rental unit from January 25, 2011 through April 30, 2011 and starting May 1, 2011 the tenant shall pay \$635.00 (\$575.00 + 60.00), subject to legal rent increases, until such time one of the occupants vacates the rental unit.

Analysis

I accept the mutual agreement reached between the parties and make the terms an Order to be binding upon both parties.

As the parties reached a mutual agreement to resolve this dispute, the Notice to End Tenancy is set aside and no longer enforceable. In recognition of the mutual agreement I order the tenant to pay the landlord \$191.61 by April 20, 2011 and should the tenant fail to pay the landlord as ordered the landlord will be in a position to issue a 10 Day Notice to End Tenancy for Unpaid Rent.

Based upon the testimony heard during this hearing the landlord shall be expecting rent of \$635.00 per month from the tenant and shall continue to expect this amount of rent until such time the number of occupants changes. Thus, it is important for the tenant to keep the landlord informed of any changes to the occupants of the rental unit. The parties must also be aware that a visitor or a guest is not considered an occupant. I encourage the parties to communicate with each other when or if the tenant has any guests that may be staying in the rental unit for an extended period of time.

Conclusion

This dispute was resolved by mutual agreement. The parties are ordered to comply with the terms of the mutual agreement recorded in this decision.

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 13, 2011.

Residential Tenancy Branch