



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes CNC, FF

Introduction

The matter was scheduled to hear the Tenant's application to cancel a Notice to End Tenancy for Cause and to recover the cost of the filing fee from the Landlords.

Both parties gave affirmed testimony at the Hearing.

Preliminary Matters

At the outset of the Hearing, the Tenant submitted that he had a financial interest in the rental property and that the parties had an agreement that the Tenant would purchase the rental property, which consists of two suites. The Tenant stated that he had paid for repairs to the rental unit because he was going to buy it, and to the other suite at the request of the Landlord. The Tenant listed the following expenses that he has incurred:

Date	Description	Amount paid
June 11, 2010	Replace carpet in Tenant's suite (labour)	\$450.00
June 16, 2010	Replace broken toilet in other suite (materials)	\$120.00
June 16, 2010	Replace broken toilet in other suite (labour)	\$191.46
October 21, 2010	Repair furnace at the rental property	\$352.05
November 18, 2010	Repair broken pipes at the rental property	\$351.74
December 6, 2010	Repair stove in other suite	\$139.00
March 2, 2011	Repair pipe in Tenant's bathroom	\$230.66
Paid for one year	Landscaping and lawn mowing	<u>\$1,280.00</u>
TOTAL		\$3,414.91

The Landlord's agent submitted that the parties discussed an option for the Tenant to purchase the property within a year of the beginning of the tenancy, but that no contract was signed. He stated that the Tenant did not pay a down payment, and that all expenses that the Tenant incurred were repaid with the exception of the landscaping

and lawn mowing expenses. The Landlord's agent stated that care of the yard was the Tenant's responsibility under the Tenancy Agreement.

Analysis

If a tenant takes an interest in the land and buildings which is higher than the right to possession under a tenancy agreement (i.e. a financial interest), jurisdiction may be declined.

The parties gave contradictory testimony with respect to whether or not the Tenant has a financial interest in the rental property and whether or not an agreement existed between the parties that the Tenant would be purchasing the property.

It is important to settle the issue of jurisdiction and therefore I adjourned this Hearing to June 23, 2011, at 9:00 a.m. in order to allow both parties to provide me with documentary evidence in support of their positions with respect to jurisdiction. I directed the parties to provide the Residential Tenancy Branch and each other with copies of their documentary evidence by June 17, 2011. I ordered the parties to serve each other either:

- Personally;
- By posting the documents on the other party's door; or
- By leaving the documents in the other party's mail box.

I directed that service be affected with a witness present and that the witness must be available to give testimony at the reconvened hearing. I order that service provided in accordance with the above methods would be deemed to be affected on the day of posting on the door or leaving the documents in the other party's mail box.

During the Hearing, I provided the parties with the access code they would need to sign into the reconvened Hearing on June 23, 2011.

The Notice to End Tenancy issued May 15, 2011, has an effective date of June 30, 2011. I explained to the Landlord that he was not prejudiced in adjourning this matter to June 23, 2011.

Conclusion

This matter is adjourned to June 23, 2011, at 9:00 a.m. by teleconference. Notices of Hearing accompany this Interim Decision.

The parties must serve each other and the Residential Tenancy branch with copies of their documentary evidence with respect to jurisdiction, as outlined in the analysis portion of this Interim Decision.

This interim 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: June 15, 2011.

Residential Tenancy Branch