



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 an application by the tenant to cancel a notice to end tenancy for cause. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began October 1, 2007 with monthly rent of \$750.00 and the tenant paid a security deposit of \$375.00 and a pet damage deposit of \$375.00. On May 4, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The tenant testified that the notice to end tenancy for cause should be set aside as the issues the landlord is accusing the tenant of are related to other tenants that used to reside on the rental property. The tenant stated that her son had been accused of drug trafficking after the police attended the four-plex but that the police had been to the property because of the tenants in unit 3 where guns were seized and removed by the police, these tenants have since been evicted.

The landlord testified that she had spoken directly to an RCMP constable who stated that the tenant's son was 'known' to him and that he was a drug dealer. The tenant stated that her son has never been in trouble with the police and does not deal drugs.

The tenant stated that in the past there had been an issue with her son smoking marijuana but that the situation was now under control and her son is going to counselling. The tenant firmly believes that her son is not smoking marijuana in the apartment.

The landlord stated that they had been an incident in March 2011 with the tenant's son where he was screaming and crying and the landlord attended the rental unit to see what was going on. The tenant maintains that her son was very upset after an adult tenant from unit 3 came to the apartment, smoked marijuana with him and then told him he was calling the landlord to complain that the son was smoking marijuana. The landlord stated that there have been no additional incidents or accusations since the tenants in unit 3 were evicted from the property.

The tenant stated that the residents from unit 3 are 'criminally minded' and continually made false accusations about the tenant and her son. Although these tenants have since vacated the rental unit whenever they see the tenant they continue to harass her and have gone in to her work to harass her there.

The landlord stated that the tenancy agreement clearly states that no criminal activity will be tolerated on the property but does acknowledge that up until these recent incidents there had never been any problems with the tenant or her son during this 3.5 year tenancy.

Analysis

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the Notice to End Tenancy for Cause dated May 4, 2011. The allegation of drug trafficking is not substantiated nor is the allegation of marijuana smoking in the rental unit (with the exception of one incident). The landlord has also confirmed in this hearing that with the eviction of the tenants in unit 3, the problems at the property have stopped.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The tenant understands that while the landlord's May 4, 2011 notice to end tenancy for cause is not upheld, that if the tenant's son's behaviour creates problems on the property in the future, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated May 4, 2011 with the result that the tenancy continues uninterrupted.

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: June 1, 2011.

Residential Tenancy Branch