



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that on May 25, 2011 the tenant was served with a one month notice to end tenancy which alleged that the tenant had engaged in illegal activity which had adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord and which had jeopardized a lawful right or interest of another occupant or the landlord.

The landlord alleged that the tenant had engaged in prostitution and that the arrival and departure of her clients and the arguments she had with her clients were disturbing to other tenants.

Analysis

The landlord bears the burden of proving the grounds alleged on the notice to end tenancy. The landlord has alleged that the tenant has engaged in illegal activity, but the only activity alleged was prostitution, which is not illegal.

While the landlord may have other grounds to end the tenancy, I find that he has not proven that the tenant has engaged in illegal activity and accordingly I order that the notice to end tenancy dated May 25, 2011 and effective June 30, 2011 be set aside.

Conclusion

The notice to end tenancy is set aside and of no force or effect. As a result, this tenancy will 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: June 20, 2011

Residential Tenancy Branch