



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, O, FF

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy and a cross-application by the landlord for an order of possession. Both parties were represented at the conference call hearing.

Issue to be Decided

Is the tenants' notice to end tenancy effective to end the tenancy?

Background and Evidence

In dispute is a notice to vacate signed by the tenant H.S. on August 28, 2011 in which she advised that she would vacate the rental unit on September 30, 2011. L.S. represented the tenants at the hearing and testified that the landlord wrote the notice to vacate and told H.S. to sign it or she would be evicted. L.S. maintained that prior to the time she signed the notice to vacate, H.S. was placed under a bail condition requiring her to live at the rental unit for 2 years.

The landlord testified that there had been several police incidents at the rental unit involving the tenants and that other occupants of the residential property had complained about the tenants. In the interest of amicably resolving their differences, the landlord suggested to H.S. that it might be wise if she found other accommodations at which time he presented to her the notice to vacate which she then signed.

Analysis

There is no dispute that H.S. signed the August 28 notice to vacate. The only question before me is whether she signed that notice under duress. In order to prove duress, the tenants must demonstrate that there was a threat of harm which compelled H.S. to sign the notice to vacate against her will. I am not persuaded that this is the case. There is no suggestion that the landlord threatened to physically harm H.S. H.S. did not appear at the hearing to offer direct testimony about the conversation which took place between

her and the landlord and I am not persuaded that the landlord threatened to evict her as L.S. alleged in his hearsay testimony. Even if the landlord did threaten to evict her, I am not persuaded that such a threat can be characterized as duress.

For these reasons I find that the August 28 notice to vacate was effective to end the tenancy and I dismiss the tenants' application to set aside that notice.

I find that the landlord is entitled to an order of possession effective 2 days after service. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The tenants' claim is dismissed and the landlord is granted an order of possession.

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: October 04, 2011

Residential Tenancy Branch