



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The tenant applies to cancel a Notice to End Tenancy given for Cause.

Both parties attended the hearing and gave evidence under oath.

Issues(s) to be Decided

Does the landlord have cause to end this tenancy?

Background and Evidence

The landlord testified that the tenant has too many occupants in the rental unit. The landlord says the rental unit is a 2 bedroom basement suite and the tenant has two people living in the suite. The landlord says the tenant had a party on August 20, 2011 attended by the tenant and 6 males. The landlord says the tenant played music until late and the landlord, who lives upstairs, could not sleep. The landlord says she was afraid to go downstairs to ask the tenant to be quiet because her husband was out of town. The landlord says the tenant sleeps all day and stays up all night and there are men coming and going and the landlord's neighbours complain. The landlord says she has no idea what is going on downstairs and she does not want to rent the basement suite anymore and wants the tenant to leave.

The tenant says she did have one party and the landlord came downstairs to tell her it was too loud and the tenant turned down the music and her guests left. The tenant says she apologized to the landlord again the next day and the landlord accepted her apology.

Analysis

The onus or burden of proof is on the party making the claim. In this case the landlord has claimed he/she has cause to end this tenancy and the tenant does not agree. Now the landlord must prove she has cause to end this tenancy and when one party provides

testimony/evidence of the events in one way and the other party provides an equally probable but different testimony/evidence of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails. I find that the landlord has failed in his burden of proving he has cause to end this tenancy.

Conclusion

The tenant's application is allowed. The Notice to End Tenancy is cancelled. The effect of this decision is that this tenancy shall continue beyond the effective date set out on the Notice to End Tenancy issued in this matter.

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*.
