



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant to set aside the landlord's Notice to End Tenancy dated August 29, 2011. At the hearing the landlord made a verbal request for an order of possession. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to an order setting aside the landlord's Notice to End Tenancy?

Background and Evidence

This tenancy began on December 17, 2011. On August 29, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause. The Notice specified that the tenant had (a) caused extraordinary damage to the rental unit; and (b) not done required repairs of damage to the rental unit. The tenant filed an application to dispute the Notice on September 7, 2011.

According to Mr. M, he (Mr. M) was out on the roof of the residential property on August 29, 2011 cleaning up garbage when he noticed that the tenant's window was broken. Mr. M testified that there was broken glass and a stainless steel pump style soap container on the roof and a pane of glass hanging outwards in the tenant's window opening. Mr. M testified that they had not received any notification from the tenant that his window was broken and due to the glass being on the outside of the building believed it was the tenant who had broken the window. As a result, the landlord served the tenant with a 1 month Notice and a letter which stated that if the tenant paid the approximate \$170.00 cost of the window "before the term expires on the eviction notice" then the notice would be cancelled. The tenant never paid the landlord anything. Ultimately, the actual cost of repairing the window was \$231.84. The landlord provided a receipt for the repair and two letters that he had given to the tenant regarding the window.

For his part, Mr. B testified that he did not break the window and therefore did not think he should have to pay for it. Mr. B believes that the window was broken from the outside by a rock and that he was not in the unit when it was broken. As well, Mr. B testified that he *had* reported the window to the “cleaning lady”. He said that he did not go to the office to report the window because “I don’t like going there”. Mr. B further stated that the landlord “never gave [him] a chance to work out a payment plan” and that he “thought the cost would just come out of [his] security deposit.

The landlord responded that it was virtually impossible for someone on the street to break the window due to lack of access to the street area below and the height and angle that the rock would have had to have been thrown.

Analysis

When a tenant disputes a Notice to End Tenancy, the landlord bears the burden of proving that the allegations contained in the Notice are true on a balance of probabilities.

In the present case, I am satisfied that the landlord has proved its case. The documentation submitted by the landlord is clear and straightforward as was Mr. M testimony. I accept the landlord’s testimony that it would be very difficult if not impossible for someone to throw a rock through the tenant’s window based on its location. In my view, the tenant’s explanation for not reporting the broken window to the office is simply not credible.

Conclusion

Based on the above I hereby dismiss the tenant’s application and find that the landlord is entitled to an order of possession effective two days from the date of service. This order may be filed in the Supreme Court and enforced as an order of that Court.

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*.