



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 issued a one month Notice to End Tenancy for Cause wishing to end the tenancy on the ground that:

Tenant has engaged in an illegal activity that has, or is likely to:

- Damage the landlord's property
- Adversely affect the quiet enjoyment, security, safety or physical well being of another occupant or the landlord.

The landlord says the tenant has threatened to damage the unit and hurt the staff. The landlord says the tenant bumps into staff and pushes them into doors and tells them he will "kick your ass". The landlord testified that one tenant heard what he/she thought were gun shots coming from the tenant's rental unit. The police were called and determined that the tenant and his guest were throwing knives at the door of the tenant's rental unit and the handle of the knives were hitting the door. The landlord presented a chronology of other complaints with respect to the tenant.

The tenant says that none of this is true.

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 he 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. While there is a litany of complaints in the chronology that the landlord provided there has provided he has provided insufficient evidence to prove that the tenant is responsible for the events that are the subject of the complaints nor has he provided any witness statements or proven at all that the tenant is engaged in an illegal activity. Overall I am not satisfied that the landlord has presented sufficient evidence to end this tenancy on the grounds stated.

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*.

Dated: December 14, 2011.

Residential Tenancy Branch