



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with an application by the tenant to allow more time to file an application and to cancel a notice to end tenancy for cause.

The tenant/applicant failed to join the conference call hearing. The landlord/respondent attended.

In the absence of any submissions or testimony at the hearing from the tenant upon which to make a decision and as the landlord attended, I have dismissed the application with no liberty to reapply being granted.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

On November 29, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

The tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord.
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
- caused extraordinary damage to the unit/site or property/park.

The landlord testified that they are seeking enforcement of the notice to end tenancy and are requesting an order of possession based on the undisputed November 29, 2011 notice to end tenancy for cause.

The landlord stated that since the October 2011 hearing the tenant has since removed the camper from the back of the yard, reattached the range hood, not had additional guests in the rental unit, cleared his excess belongings out of the kitchen and the other tenant in the rental unit has not called the landlord with any complaints regarding the tenant.

The landlord stated that the tenant continues to have items stored outside under the stairs and acknowledged that they have never given the tenant written notice to clear this area out or to address any other concerns there have been with the tenancy.

Analysis

The landlord bears the burden of proving on the balance of probabilities that he has cause to end the tenancy.

The landlord testified that the tenant has addressed and corrected the issues that the landlord had based the notice to end tenancy on with exception of the items stored outside under the stairs. The landlord expressed frustration for having to deal with issues related to this tenancy in the past however acknowledged in this hearing that they have never provided the tenant with written notice to correct his actions or specifically to clear the area under the outside stairs out and specify to the tenant that this area was not to be used for storage.

The landlord wished to rely on evidence from a previous hearing that is related to a prior notice to end tenancy for cause and has not, for the November 29, 2011 notice to end tenancy for cause, established sufficient grounds on which to end the tenancy.

I find insufficient evidence on the landlord's part that proves that the tenant placed the landlord's property at risk, unreasonably disturbed or seriously jeopardized another occupant or the landlord or has caused extraordinary damage to the rental unit.

The landlord's 1 Month Notice to End Tenancy for Cause dated November 29, 2011 is hereby set aside with the result that the tenancy continues uninterrupted.

The tenant's application is dismissed without leave to reapply.

Conclusion

For the reasons given above, I find that the landlord has failed to prove that he has cause to end the tenancy. Accordingly I order that the notice to end tenancy be set aside and of no force or effect. As a result, the tenancy will continue.

The tenant's application is dismissed without leave to reapply.

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: January 16, 2012

Residential Tenancy Branch