



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 the tenant's Application for Dispute Resolution seeking more time to cancel a notice to end tenancy and to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant and her advocate. The tenant did have a witness available but no testimony was required from the witness.

The tenant testified that she served the landlord personally with notice of hearing documents and a copy of her Application for Dispute Resolution to the landlord on January 20, 2012 and that this service was witnessed by a third party. I note also that the landlord submitted evidence for this hearing on January 23, 2012.

Based on the testimony of the tenant and the fact the landlord submitted evidence to this hearing, I find the landlord was sufficiently served for purposes of this hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to more time to cancel a notice to end tenancy and to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Sections 46 and 66 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in December 2009 as a month to month tenancy for the current monthly rent of \$550.00 due on the 1st of each month. She also testified that she received a 1 Month Notice to End Tenancy for Cause on January 1, 2012 stating that she had engaged in illegal activities. The tenant testified she has not engaged in any such activities.

The tenant testified that she had been hospitalized in January 2012 for pneumonia and as a result she was unable to file her Application for Dispute Resolution until January 16, 2011. The tenant testified she submitted her application at the earliest possible time she could.

Analysis

Section 66 of the *Act* allows an extension of time under exceptional circumstances, I accept from the tenant's testimony that she was unable to file her Application within the required deadline due to hospitalization and I grant her more time to submit her Application.

Section 47 states a landlord may end a tenancy if a tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property; has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property; or has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

In the absence of any testimony from the landlord and based on the testimony provided by the tenant, I find the landlord has failed to establish that he had cause to end this tenancy.

Conclusion

For the reasons above, I cancel the Notice to End tenancy and find the tenancy in full force and effect.

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: February 06, 2012.

Residential Tenancy Branch