



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause and money owed or compensation for damage or loss.

The tenant participated in the conference call hearing but the landlord did not. The tenant presented evidence that the landlord was served with the application for dispute resolution and notice of hearing in person. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

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

Background and Evidence

On January 18, 2012 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.
- The tenant has damaged the landlord's property.

The tenant testified that the landlord keeps giving him notices to end tenancy for cause but that is another tenant in the building that is causing all of the problems. The tenant stated that he was going to act as a witness for the landlord in a hearing that involved the other tenant but that the landlord told him the hearing had been cancelled.

The tenant stated that he had been directed to submit all of his evidence on the other tenant's file and that was why his evidence was not available for this hearing.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The landlord did not appear, and as a result the landlord has not proven that the notice to end tenancy was issued for the reasons set out in the notice.

Therefore, I grant the tenant's application to cancel the notice to end tenancy issued on January 18, 2012. Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

In regards to the tenant's claim for compensation, this portion of the tenant's application is dismissed with leave to reapply.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated January 18, 2012 with the result that the tenancy continues uninterrupted.

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 20, 2012

Residential Tenancy Branch