



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for an Order Cancelling a Notice to End Tenancy for Cause (the “Notice”).

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice valid?

Is the Tenant entitled to an order cancelling the Notice.

Background and Evidence

The following are undisputed facts: The Tenancy began on December 10, 2003. The Tenant received the Notice on February 6, 2012. The Notice lists the following cause:

The tenant has engaged in an illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The Landlord states that letters dated May 27 and June 21, 2011, were sent to the Tenant warning the Tenant that the Landlord had concerns about visitors to the Tenant’s unit. The Landlord states that the information in relation to these visitors came from the previous resident manager although the manager told the Landlord that only one or two persons were actually seen going to the Tenant’s unit. The Landlord agrees with the Tenant that this manager was fired in December 2011. The Landlord further

states that no tenants complained or advised the Landlord of any concerns about the Tenant's visitors in the period leading up to these letters. The Landlord supplied a letter dated September 12, 2011 to the Tenant that informs the Tenant of the Landlord's dismay in relation to a police incident and the conduct of the Tenant's guest. The Landlord states that the Tenant called and provided an explanation for the police attendance but that the Landlord cannot recall that explanation.

The Landlord states that before serving the Notice to the Tenant, no tenants in the building provided the Landlord with their thoughts on the people attending the Tenant's unit but that following the manager's dismissal and during a period of upheaval with temporary resident managers, another tenant posted a notice at various places in the building and under other tenant's unit doors, indicating that the Tenant was selling "crystal meth". On the same day as this notice was distributed, the Landlord states that two tenants sent emails voicing their concerns. The notice and emails have been provided as evidence however it is noted that the authors' names on the emails have been blacked out. At this point, the Landlord states that the Tenant was served with the Notice.

The Landlord states that following the application the Landlord collected letters from other tenants and has supplied letters from these persons as evidence of the Tenant's drug selling activity. It is noted that the authors' names on these letters are also blacked out.

The Landlord states that no meth lab or drugs were noted to be present during the Landlord's presence in the unit, the most recent being in January and March 2, 2012. Further, the Landlord states that no reports were ever made to the police by the Landlord in relation to the suspicions of the other tenants or Landlord.

The Tenant states that the police incident in September 2011 was in relation to an incident involving the Tenant's ex-partner who had a knife. The Tenant states that the

person who distributed the notice accusing the Tenant of selling drugs was the same person who let the Tenant's ex-partner into the building.

The Tenant states that he is in the advanced stages of AIDS and that he does have several caregivers come to the unit to assist him and to deliver store purchases, such as cigarettes and milk. The Tenant states that he has been slandered by the accusations of drug dealing and that this has affected his health. The Tenant states that none of the letters from other tenants indicate that they were threatened by the people coming to his unit and argues that any fear that has arisen is the result of the other tenant's notice that was distributed.

Analysis

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. As a result of a review of the contents of the letters and emails provided as evidence by the Landlord, I find that these letters and emails are primarily in relation to suspicions. Further, given that the emails and letters are from unnamed persons, I find that overall this evidence has little probative value and cannot therefore be accorded much weight. As the Landlord did not call any witnesses and did not provide any corroborating evidence for the letters and emails or the first letter to the Tenant by the previous resident manager, I find that the Landlord has failed to substantiate that the Tenant has engaged in an illegal activity. Accordingly, I find that the Notice is invalid and that the Tenant is entitled to a cancellation of the Notice.

Conclusion

The Notice is cancelled and the tenancy continues.

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: March 9, 2012.

Residential Tenancy Branch