



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, MND, FF, CNC, RP, OLC

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicants have put on the applications. For claims to be combined on an application they must related.

Not all the claims on these applications are sufficiently related to the main issue to be dealt with together.

I therefore will deal with whether to uphold or cancel a Notice to End Tenancy that was given for cause and I dismiss the remaining claims, with liberty to re-apply.

Background and Evidence

On March 3, 2012 the landlords personally served the tenant with a one month Notice to End Tenancy for cause that stated:

- “tenant has engaged in 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 testified that:

- The electrical breakers at the rental unit kept going off and this is a problem they had never had with previous tenants.
- They went to the rental unit to investigate and found a few buds of marijuana in the attic area.
- They had also noticed, and had complaints of a marijuana like smell coming from the rental unit.
- They therefore believe that the tenant is engaged in illegal activity and they want this tenancy ended.

The tenant testified that:

- He is not engaged in any illegal activity, and did not even know there was an opening to the attic in the rental unit.
- The landlords came bursting into his rental unit and went into the attic and came out with a few buds of marijuana; however he has no idea where they came from and they may well have been there when he moved in.
- No charges whatsoever have been laid against him, and in fact it was him who called the police.
- He is therefore requesting that this Notice to End Tenancy be cancelled.

Analysis

To end a tenancy for illegal activity the landlords must meet the burden of proving that the tenant is engaged in illegal activity, and in this case it is my finding that they have nowhere near enough evidence to meet that burden.

A few buds of marijuana combined with electrical problems in the unit, and the smell of marijuana, may seem suspicious, however it is not enough for me to make a finding that the tenant is engaged in illegal activity.

Therefore it is my decision that the landlords do not have sufficient evidence to end this tenancy for illegal activity.

Conclusion

The Notice to End Tenancy dated March 3, 2012 is hereby cancelled and this tenancy continues.

I further Order, that the landlord bear the cost of the filing fees paid for this hearing. The tenant may therefore deduct \$50.00 from future rent payable to the landlord.

As stated above the remaining claims made by the landlord and the tenant are dismissed with 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: March 28, 2012.

Residential Tenancy Branch