



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause.

Both parties participated in the conference call hearing.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began approximately 3 years ago.

On February 22, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that the tenant had made slanderous and libellous statements against the landlord and had tried to get money out of the landlord. The landlord referred to a statement that the tenant had another person write and submit for evidence in file 787320. This statement alleges that the resident manager had been involved in drug use on the property. The witness then left a voice mail message on the landlord's answering machine apologizing for the statement, that is was not true and she had been pressured into writing it by the tenant.

The landlord stated that as this is an SRO they work very hard to ensure they have a good reputation and the tenant's negative comments have denigrated the resident manager and hotel's reputation.

The tenant testified that as far as he knew the statement made by his witness was true and he had not heard the recording that the landlord claimed to have refuting from the witness apologizing for the statement.

Analysis

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the Notice to End Tenancy for Cause.

The onus or burden of proof is on the party making the claim and in this case the landlord has claimed there is cause to end this tenancy and the tenant does not agree. The landlord must prove he has cause to end this tenancy and when one party provides testimony/evidence of the events in one way and the other party provides an equally probable but different testimony/evidence of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails.

I find that the landlord has failed in his burden of proving he has cause to end this tenancy. The landlord's concerns are duly noted however I do not find that the tenant's actions rise to the level whereby the tenancy should come to an end. The tenant must ensure that his conduct is professional and that if there are issues with the tenancy in the future that matters be resolved through this office.

The tenant understands that if his behaviour creates problems on the property in the future IF: negative comments or false statements directed at the landlord, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated January 22, 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: March 19, 2012

Residential Tenancy Branch