



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNSD, CNC

Introduction

Some documentary evidence, photo evidence, and written arguments have 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 applicant has put on the application. For claims to be combined on an application they must related.

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

I therefore will deal with the request to cancel a Notice to End Tenancy and recovery of the filing fee, and I dismiss the remaining monetary claim, with liberty to re-apply.

Background and Evidence

The landlord testified that:

- This is a non-smoking suite and he recently confirmed that the tenant is smoking in the rental unit and therefore he served her a one month Notice to End Tenancy, on April 21, 2012.
- Other tenants in the rental property have complained about the smoke and one tenant is actually vacating due to the smoke.
- He is requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- She admits that she is smoking in this rental unit and also admits that she knew this is a no smoking unit.
- She thinks the Notice to End Tenancy should be cancelled however because the landlords notice is based on videotape evidence of her smoking in the rental unit and she believes that as an invasion of her privacy.

Analysis

The tenant has admitted that she is fully aware that this is a non-smoking unit.

The tenant has also admitted that she does occasionally smoke in the rental unit.

Therefore since the tenant is admitting that she is breaching the tenancy agreement, I am not willing to cancel the Notice to End Tenancy.

This tenancy therefore ends on May 31, 2012.

Conclusion

The tenant's application to cancel the Notice to End Tenancy is dismissed and, at the request of the landlord, I have issued an Order of Possession for 1 p.m. May 31, 2012.

I also dismiss the request for recovery of the filing fee.

As stated previously the monetary portion of this application is 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: May 22, 2012.

Residential Tenancy Branch