



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, MNDC

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 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 I dismiss the remaining claims, with liberty to re-apply.

Background and Evidence

On May 16, 2012 the landlord served the tenant with a Notice to End Tenancy giving the following reason:

- 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 tenant is smoking pot in the rental unit and the smoke is disturbing the other occupants and the landlord.
- They have told the tenant not to smoke pot in the unit but he continues to do so.

The tenant testified that:

- I never smoked marijuana in the rental property, the landlords asked me not to, and therefore I do not.
- I do not deny smoking marijuana but it is never done on the rental property.
- Perhaps the smell is coming from the other suite in the property, as he knows that the tenants of that property smoke crack in the suite.

In response to the tenant's testimony the landlords testified that:

- The marijuana smoke is clearly coming from this tenant's suite.

Analysis

The burden of proving a claim lies with the person making the claim and when it is just that person's word against that of the other, that burden of proof is not met. In this case it is just the landlord's word against that of the tenant and that is not sufficient to meet the burden of proving that the tenant is involved in illegal activity.

Conclusion

The Notice to End Tenancy dated May 16, 2012 is hereby cancelled and this tenancy continues. I further order recovery of the \$50.00 filing fee and therefore the tenant may make a onetime \$50.00 deduction from future rent payable to the landlord.

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: June 18, 2012.

Residential Tenancy Branch