



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNE CNC

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy. The tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing, the landlord stated that he had personally served the tenant the notice to end tenancy on October 26, 2012. The tenant stated that he was personally served the notice on October 30, 2012. The tenant applied to cancel the notice on November 9, 2012. If the tenant had been served on October 26, 2012, he would have made his application more than 10 days after having been served the notice. In this case, I found that the landlord did not provide sufficient evidence to establish that the tenant was served the notice on October 26, 2012. I therefore found, on a balance of probabilities, that the tenant was served the notice on October 30, 2012.

The landlord acknowledged in the hearing that one of the two grounds for ending the tenancy was not applicable, as the tenant's rental unit was not needed for a new employee. I therefore did not consider whether the landlord had grounds to end the tenancy for end of employment.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The landlord served the tenant with a notice to end tenancy on the basis that the tenant significantly interfered with or unreasonably disturbed another occupant. The landlord stated that the tenant regularly caused trouble in the building. The tenant lives on the first floor of the building, but he goes up to the third floor and interferes with another tenant who lives on that floor. He tries to get into her apartment and she won't let him in, and he shoves letters under her door. The tenant fought with another third-floor tenant

in the hallway of the third floor. The tenant was also harassing another female on the first floor. The tenant has caused a lot of disturbances, and other tenants have been threatening to move out.

The landlord did not submit any documentary evidence or have any witnesses appear in the hearing to give testimony.

The tenant stated that he was in a relationship with the female tenant on the third floor, and as she didn't have a telephone, he was taking messages for her and leaving notes. The tenant stated that he has pressed charges against another tenant for assaulting him. The landlord's evidence is based on hearsay and it has nothing to do with the tenant.

Analysis

I find that the notice to end tenancy is not valid. The landlord did not provide sufficient evidence to show that other tenants had made complaints and that the landlord had investigated those complaints. It is not sufficient for a landlord to seek to end a tenancy without providing evidence to support the alleged cause for ending the tenancy.

Conclusion

The notice to end tenancy is cancelled, with the effect that 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: December 14, 2012.

Residential Tenancy Branch