



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This matter dealt with an application by the tenants to cancel a Notice to End Tenancy for cause.

The tenants and landlords attended the conference call hearing, gave sworn testimony. The landlord and tenant provided limited documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Are the tenants entitled to cancel the Notice to End Tenancy?

Background and Evidence

The parties confirm that this month to month tenancy started approximately five years ago although neither party remembered the date and no written tenancy agreement was entered into. The rent for this unit is \$640.00 per month and is due on the first day of each month.

The tenants testify that they were served with a One Month Notice to End Tenancy by the landlord. However the tenants have failed to provide a copy of this Notice in evidence.

The landlord agrees that they did serve the tenants with a One Month Notice. However the landlords have failed to provide a copy of this Notice in evidence.

Analysis

In this matter, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist to end the tenancy. This means that if the landlord does not provide any evidence to satisfy the burden of proof or in fact a copy of the Notice to determine if it is a legal and valid Notice showing the reasons given to end the tenancy; then if the tenants disputes the notice I cannot uphold the Notice without having a copy of it in documentary evidence.

Therefore, I find that the landlord has not provided sufficient evidence to show the grounds detailed on the Notice to End Tenancy exist or that a valid Notice was served upon the tenants. As a result, the Notice is cancelled and the tenancy will continue.

The landlord is at liberty to serve the tenants with another One Month Notice to End Tenancy.

Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause is cancelled and the tenancy will continue.

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: January 28, 2013

Residential Tenancy Branch

