



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FF

Introduction

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

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy began on November 1, 2013. On January 25, 2013, the landlord served the tenant a notice to end tenancy for cause. The notice indicated that the reason for ending the tenancy was that the tenant breached a material term of the tenancy agreement and failed to correct the breach within a reasonable time after written notice to do so.

Landlord's Evidence

The landlord stated that since the outset of the tenancy, they have received several noise complaints from other tenants. The tenancy agreement contains a clause, in section 17, prohibiting the tenant from disturbing other occupants or the landlord. The landlord's agent personally served the tenant with a warning letter on November 13, 2012, but the tenant refused to sign the letter to acknowledge that she received it. The

landlord continued to receive further noise complaints, and on January 9, 2013 the landlord sent the tenant a second warning letter by regular mail. The landlord continued to receive complaints about the tenant's noise, and on January 25, 2013 they served the tenant the notice to end tenancy for cause.

Tenant's Response

The tenant denied receiving either written warning. She stated that no one has ever come to her house with papers, and she did not receive the second warning letter by regular mail. As the tenant did not receive any written warnings about disturbing other tenants, she could not correct a breach of section 17 of her tenancy agreement. The tenant denied making excessive noise, but acknowledged that she is now aware of the other tenants' noise complaints and stated she is taking steps to reduce noise.

Analysis

I find that the notice to end tenancy is not valid. The landlord did not provide sufficient evidence of service of the warning letters, and the tenant denied ever receiving any warning letters. The notice to end tenancy alleged that the tenant continued to breach her tenancy agreement after having received written notice to correct the breach.

I make no findings regarding the validity of the noise complaints. It is open to the landlord to issue a new notice to end tenancy for cause, and allege that the tenant has unreasonably disturbed other occupants or the landlord.

As the tenant's application was successful, she is entitled to recovery of the \$50 filing fee for the cost of her application.

Conclusion

The notice to end tenancy is cancelled, with the effect that the tenancy continues.

The tenant may deduct \$50 from her next month's rent.

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: February 28, 2013

Residential Tenancy Branch

