



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wil-Anne Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for cause.

Both parties attended the hearing by conference call and gave testimony. The Tenant did not submit any documentary evidence and has confirmed receipt of the Landlord's submitted documents. As both parties have attended the hearing and have confirmed receipt of the Tenant's notice of hearing package and the Landlord's documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling a notice to end tenancy issued for cause?

Background and Evidence

This Tenancy began on April 15, 2000 on a month to month basis as shown by the submitted copy of the signed tenancy agreement.

The Landlord states that a 1 month notice to end tenancy issued for cause dated April 16, 2013 was served to the Tenant on March 16, 2013. Both parties have confirmed that this is a typo and that the Tenant received the notice on March 16, 2013. The notice has a stated effective date of April 16, 2013. The stated reason for cause is, "Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord." The Landlord relies on a letter dated March 19, 2013 which was typed by the Landlord and signed by a former Tenant, P.H. in unit #5. The letter states as the reasons for leaving the

residence as, “constant traffic coming and going all hours of the day, RCMP on site regularly, selling of illegal substances, shouting and arguing outside of residence and all hours of night and using my phone to order illegal substances without my knowledge.” The Tenant disputes these claims. The Landlord stated that he has no firsthand knowledge of any of these complaints and is unable to provide any details of such.

Analysis

I accept the undisputed testimony provided by both parties that the 1 month notice to end tenancy issued for cause dated April 16, 2013 was in fact personally served upon the Tenant on March 16, 2013. The effective date of the notice is automatically corrected as per the Act to April 30, 2013. Both parties have confirmed that the Landlord failed to provide any details for the reason of the notice when it was served upon the Tenant until the Landlord's evidence was received.

The onus or burden of proof is on the party making the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

I find that the Landlord has failed to provide sufficient detail on the reasons for cause. The Landlord relies on a letter drafted by the Landlord and signed by the Tenant listing 5 issues of complaint made by the Tenant/witness. These are all issues that would significantly interfere or unreasonably disturb another occupant or the landlord, however the letter fails to provide any details of the circumstances behind these reasons and the Landlord is unable to provide any further evidence on these circumstances. The Landlord has also failed to provide any details of any notice given to the Tenant to stop and that their Tenancy was in jeopardy. On this basis, on a balance of probabilities, I find that the Landlord has failed to provide sufficient evidence to satisfy me of the reasons for cause. The Tenant's Application is granted. The notice dated April 16, 2013 is set aside and the Tenancy shall continue.

Conclusion

The Tenant's Application to cancel the notice to end tenancy is granted.

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: April 17, 2013

Residential Tenancy Branch

