



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sanford Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

Both parties attended the hearing by conference call and gave testimony. The Tenant submitted a copy of the 1 month notice to end tenancy and a 1 page letter to allow an advocate to appear with him. The Tenant has not submitted any other documentary evidence. The Landlord has confirmed receipt of the notice of hearing package and states that a 15 page documentary evidence package was delivered by Canada Post XpressPost on June 24, 2013. The Tenant states that no evidence has been received from the Landlord. The Landlord has provided an XpressPost tracking number. I find that the Landlord has failed to provide sufficient evidence to satisfy me of the evidence package sent to the Tenant on June 24, 2013. However, after reviewing the contents of the package with both parties, the Tenant has confirmed document (1), a copy of the Residential Tenancy Agreement, (2) Crime Free Housing Addendum, (5) MPA Society written agreement dated January 11, 2013 signed by the Landlord on January 11, 2013 and signed by the Tenant on January 15, 2013. As such, I accept documents numbered 1, 2 and 5 of the Landlord's evidence as the Tenant has confirmed these documents. The remaining documents were not considered for this hearing.

Issue(s) to be Decided

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

Background and Evidence

This Tenancy began on January 1, 2013 on a fixed term tenancy ending on May 31, 2013 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement.

Both parties confirmed the Landlord served a 1 month notice to end tenancy dated May 28, 2013 by posting it to the rental unit door. The notice shows an effective date of June 30, 2013. The stated reasons for cause are:

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.
- jeopardize a lawful right or interest of another occupant of the landlord.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord states that the Tenant is engaging in drug trafficking in the rental unit. The Tenant disputes this. The Landlord refers to document numbered (2) the crime free housing addendum and document number (5). The Landlord states that a meeting took place on January 11, 2013 where the Tenant was cautioned regarding, "sharing" drugs or "giving away drugs" to people on the rental property. This meeting resulted in the letter dated January 11, 2013 being signed as an understanding. The Tenant states that he does not sell drugs, but shares them with his friends on the rental property when they visit him.

Analysis

I accept the undisputed testimony of both parties and find that the Tenant has been properly served with the 1 month notice to end tenancy dated May 28, 2013 by posting it to the rental unit door.

The Landlord has failed to provide any evidence that the Tenant has engaged in any illegal activity. On this basis, I find that reasons 1 and 2 of the notice are not supported and that they are dismissed.

I also find that the Landlord has also failed to establish grounds for cause that the Tenant has breached a material term of the tenancy agreement that was not corrected after within a reasonable time after written notice to do so. The Landlord's letter dated January 11, 2013 has failed to show what actions the Tenant was warned to stop that the Landlord deems a material term of the tenancy agreement. The Landlord has failed to show what if any of the agreed items #1-5 of the letter that the Tenant has agreed to was breached. The Tenant's Application to cancel the notice to end tenancy dated May 28, 2013 is granted. The notice is set aside. 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: July 08, 2013

Residential Tenancy Branch

