



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on June 26, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated June 26, 2013?

Background and Evidence

The tenancy began approximately 8 ½ years ago. The present rent is based on income and is \$327 per month payable on the first day of each month.

The tenant lives in a rental unit in the top floor of a 4-plex which is part of a complex.

The landlord served a one month Notice to End Tenancy on the Tenant alleging the tenant has been abusive and rude to other tenants and representatives of the landlord on many occasions. Many witnesses testified for the landlord. Some testified the rudeness and abuse was occurred after the tenant was intoxicated. The tenant denies the allegations. He further testified that he has recently returned from a trip to the hospital where he was told by the doctor that he must stop drinking.

Analysis

The Notice to End Tenancy relies on section 47(1)(d) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...
(d) the tenant or a person permitted on the residential property by the tenant has
 (i) significantly interfered with or unreasonably disturbed another
 occupant or the landlord of the residential property,
 (ii) seriously jeopardized the health or safety or a lawful right or interest of
 the landlord or another occupant, or

...
(e) the tenant or a person permitted on the residential property by the tenant has
engaged in illegal activity that

...
 (ii) has adversely affected or is likely to adversely affect the quiet
 enjoyment, security, safety or physical well-being of another occupant of
 the residential property, or

...
(h) the tenant
 (i) has failed to comply with a material term, and
 (ii) has not corrected the situation within a reasonable time after the
 landlord gives written notice to do so;

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The landlord withdraws the one month Notice to End Tenancy dated June 26, 2013 on a without prejudice basis and reserves the right that should there be any further misconduct the landlord shall be at liberty to rely on the grounds and evidence relied on in support of this Notice to End Tenancy.
- b. The tenant shall remove one of his vehicles from the landlord's property and the access road leading up to the property.
- c. The tenant shall use the outside parking spot in front of the rental property leaving the inside spot vacant for the use of other tenants.

As a result of the settlement I ordered the Notice to End Tenancy dated June 26, 2013 be cancelled on a without prejudice basis and the landlord retains the right to serve a new Notice to End Tenancy on the same grounds if there are any further difficulties with the Tenant.

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: August 09, 2013

Residential Tenancy Branch

