



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC AS FF

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause, as well as for an order allowing the tenant to assign or sublet because the landlord has unreasonably withheld permission.

At the outset of the hearing, each party confirmed that they had received the other party's 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.

The tenant also sought to amend his application to include a monetary claim. As the landlord received the tenant's evidence in which the tenant detailed his monetary claim, I allowed the amendment. During the hearing the tenant also agreed that the portion of his application requesting an order allowing the tenant to assign or sublet was moot, as the occupant that the tenant wished to sublet to has now moved out and left the country.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the tenant entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on June 1, 2013 as a fixed-term tenancy to end on January 31, 2014. The tenancy may revert to a month-to-month tenancy after that date. Monthly rent is \$1200.

On August 13, 2013, the landlord served the tenant with a notice to end tenancy for cause. The cause indicated on the notice was that the tenant had assigned or sublet the rental unit without the landlord's written consent. On or about August 18, 2013, an

occupant moved into the rental unit. The tenant had paid the landlord the full rent for August 2013, so the occupant paid the tenant for a portion of August 2013 rent. The occupant paid the landlord for a portion of September 2013 rent, and he vacated the rental unit on September 16, 2013. The tenant then paid the landlord the balance of September 2013 rent.

#### *Tenant's Evidence*

The tenant stated that the landlord unreasonably withheld permission for the tenant to sublet, as the landlord approved the occupant's references but refused permission for the tenant to sublet because the tenant would not give the landlord personal information that the tenant was not required to give.

The tenant claimed monetary compensation of \$1757, on the basis that the tenant would have to pay the landlord this amount if she had simply approved the sublet and the occupant sublet the unit for the intended duration of August 18 to October 31, 2013.

#### *Landlord's Response*

The landlord stated that she was not a professional landlord, and the tenant knew that. The landlord was not familiar with the rules and regulations regarding subletting and assignment. The landlord stated that based on the information she received, it would not be a good idea for her to give the tenant permission to sublet. Instead, the landlord stated, she and the occupant entered into an assignment. The landlord did not submit any documentary evidence to establish that she entered into a written agreement with the occupant.

#### Analysis

##### *Notice to End Tenancy*

I find that the notice to end tenancy is not valid. The landlord unreasonably withheld permission for the tenant to sublet the rental unit. A landlord may reasonably withhold a tenant's written request to sublet if the reference or credit checks indicate that a prospective sub-tenant is unlikely to adhere to the terms of the tenancy agreement. I do not find it reasonable for the landlord to withhold permission to sublet because the tenant refused to provide personal information to the landlord; such information was not necessary for the landlord to determine the suitability of the subtenant.

*Monetary Claim*

I find that the tenant is not entitled to monetary compensation as claimed. If the nature of the occupant's occupancy was a sublet, the tenant would be responsible for any failure of the subtenant to pay rent. If the landlord in fact assigned the tenancy to the occupant, then the tenancy with the tenant would have ended with the beginning of the assignment, and the assignee would be responsible for paying rent directly to the landlord. I find that whether the occupant was a sublettor or an assignee, the landlord reinstated the tenancy with the tenant when she accepted rent from the tenant for the latter half of September 2013.

As the tenant's application was only partially successful, I find that he is entitled to partial recovery of his filing fee, in the amount of \$25.

Conclusion

The notice to end tenancy dated August 13, 2013 is cancelled, with the effect that the tenancy continues.

The tenant may withhold \$25 from his next month's rent, in satisfaction of partial recovery of his filing fee.

The balance of the tenant's monetary claim is dismissed.

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: September 23, 2013

---

Residential Tenancy Branch

