



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0916348 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

Both parties attended the hearing by conference call and gave testimony. The Landlord did not submit any documentary evidence and has confirmed receipt of the Tenant's notice of hearing package and the submitted documentary evidence.

Issue(s) to be Decided

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

Background and Evidence

The Tenant seeks to cancel a notice to end tenancy issued for cause dated August 31, 2013. The notice states an effective vacancy date of September 30, 2013. The notice also shows that 3 reasons for cause selected by the Landlord.

-Tenant or a person permitted on the property by the tenant has:

Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Put the landlord's property at significant risk.

-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 responsible for the fire alarms from continuously going off in the rental unit. The Landlord states that smoke has occurred outside of the Tenants rental unit and that the Tenant had ignited some cardboard and egg cartons on fire. The Tenant disputes this stating that he has notified the Landlord of an ongoing

problem with the fire alarms going off on their own. The Landlord disputes this stating that he had a fire technician attend and replace the fire alarm in the rental unit.

Analysis

The onus or burden of proof lies with the party who is making the claim. In this case, the Landlord has the burden to show that the reasons for cause as indicated on the 1 month notice to end tenancy issued for cause dated August 31, 2013. 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. The Landlord has failed to provide sufficient evidence to satisfy me that the Tenant was the cause of numerous activations of the fire alarm. The Landlord has also failed to provide any other relevant evidence of the Tenant's breach of a material term of the tenancy that was not corrected within a reasonable time after written notice to do so was given. I find that the Landlord has not met the burden. The Tenant's Application is granted. The notice dated August 31, 2013 is set aside and the Tenancy shall continue.

Conclusion

The Tenant's Application is granted.

The 1 month notice to end tenancy dated August 31, 2013 is set aside and the Tenancy shall continue.

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: October 16, 2013

Residential Tenancy Branch

