



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding UVHS - URBAN VISION HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution made by the tenant to cancel a One Month Notice to End Tenancy for Cause.

The tenant appeared for the hearing with an advocate and a lawyer. An agent for the landlord appeared for the hearing and confirmed receipt of the Notice of Hearing documents served by the tenant for this hearing. As a result, I find that the tenant served the hearing documents to the landlord in accordance with the Act.

The landlord and tenant provided some affirmed testimony and the tenant's lawyer made some submissions before the conclusion of the hearing. The landlord confirmed receipt of some evidence from the tenant about the history of the tenancy but this was not before me at the time of this hearing. The only evidence the landlord submitted prior to this hearing was the notice to end tenancy.

Issue(s) to be Decided

Has the tenant established that the notice to end tenancy for cause ought to be cancelled?

Background and Evidence

Both parties agreed that this tenancy started on June, 2006 and while no written tenancy agreement was completed, the tenancy was established on a month to month basis with rent payable by the tenant to the landlord on the first day of each month in the amount of \$400.00. The landlord and tenant were unable to establish whether a security deposit had been requested by the landlord or paid by the tenant at the start of the tenancy.

At the start of the hearing, the landlord testified that the tenant was personally served with a 1 Month Notice to End Tenancy for Cause on December 12, 2013. The notice was provided as evidence and states that the expected date of vacancy is January 31, 2014. The notice states the following reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - put the landlord's property at significant risk
- Tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property
 - 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 or the landlord

The landlord testified that the tenant is not happy being in this tenancy because of recent changes that had been made to the building rules. The landlord testified to some of these changes which included smaller opening hours of the shared communal kitchen facilities because tenants in the building have not been switching off the stove which has created a dangerous situation for the building. The landlord testified that the tenant also leaves his door open to his rental unit which creates a fire hazard in the building.

However, the landlord testified that since the issuing of the notice to end tenancy for the above reasons, the tenant has started to follow the new rules and the reasons on the notice to end tenancy are no longer an issue for the landlord. The landlord indicated that as a result, she is happy for the tenancy to continue and withdrew the notice to end tenancy.

The tenant confirmed that he had been personally served the notice to end tenancy on December 12, 2013. The landlord's lawyer submitted that they did not consent to the withdrawal of the notice to end tenancy as they were in a position to dispute the alleged reasons on the notice as the tenant disagreed with the reasons and that he had been following the rules. However, the tenant's lawyer acknowledged and agreed that there was no benefit in presenting evidence in relation to this because the tenancy was going to continue and that the notice to end tenancy was now a moot point.

Analysis

In my analysis of the notice to end tenancy, I find that the content of the notice and the manner in which it was served to the tenant complies with the Act.

Policy guideline 11 to the Act states that a notice to end tenancy can only be withdrawn with the consent of both parties. In this case, the tenant's lawyer did not provide this consent and therefore the notice to end tenancy cannot be withdrawn by the landlord.

Based on the landlord's testimony that there have been no alleged problems with the tenant's behaviour and actions in this tenancy since the notice has been issued, and that the landlord intends that this notice to end tenancy be waived and the tenancy be continued, I cancel the notice to end tenancy with the consent of both parties.

Conclusion

For the reasons set out above, I cancel the 1 Month Notice to End Tenancy for Cause issued by the landlord to the tenant on December 12, 2013.

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: February 03, 2014

Residential Tenancy Branch

