



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to cancel a one month Notice to End Tenancy and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Preliminary Matters

During the course of this matter, the Tenant had to be cautioned regarding his informal attitude toward the hearing process. For example, the Tenant referred to the Arbitrator as was "my good friend" and words to that effect several times. I explained to the parties that I did not know the Tenant and had never met him. I explained to the Tenant that by continually calling the Arbitrator "my good friend" he was giving the improper impression that we knew each other. Furthermore, the Tenant had to be cautioned about not interrupting the proceeding, and not following the instructions of the Arbitrator.

Both the Landlord and the Tenant had *many* questions unrelated to the issues of the one month Notice to End Tenancy which I could not give advice on; however, they were advised to speak with an Information Officer at the Residential Tenancy Branch.

Issue(s) to be Decided

Is the one month Notice to End Tenancy valid or should it be cancelled?

Background and Evidence

The Landlord and the person assisting the Landlord testified the Landlord gave the Tenant a one month Notice to End Tenancy as he had failed to pay rent and was late paying rent several times. The Notice to End Tenancy was given to the Tenant on April 30, 2014.

However, the Landlord did not check off any of the boxes on the Notice to End Tenancy.

The Landlord explained the Tenant had been late paying rent and had also been given a 10 day Notice to End Tenancy for unpaid rent. However, the 10 day Notice to End Tenancy was not an issue before me.

The Tenant testified that he thought it was an illegal suite and that the tenancy had started as a “gentlemen’s agreement”, without a written tenancy agreement. He acknowledged he understood he could not withhold rent from the Landlord.

Analysis

Based on the above, the testimony and the Notice to End Tenancy, and on a balance of probabilities, I find that the Notice to End Tenancy must be cancelled, as it is not valid.

A fundamental principle in natural justice and under the Act is that a person must know the claims that are being made against them. Therefore, under the Act when a landlord wishes to end a tenancy, they must use the proper form and they must clearly indicate the cause, or causes, they feel they have to end the tenancy with the tenant.

Here the Landlord has failed to do this.

A Notice to End Tenancy where none of the causes to end the tenancy are listed is not valid. The Notice contains several boxes indicating different causes to end the tenancy and the Landlord failed to check off a box indicating why they wanted the tenancy to end. **Therefore, I find the Notice to End Tenancy is not valid and must be cancelled. The tenancy will continue until ended in accordance with the Act.**

As the Tenant has been successful, he may deduct \$50.00 for the filing fee for the Application from one month of rent.

During the course of the hearing the Landlord brought up the issue of a 10 day Notice to End Tenancy apparently given to the Tenant. I explained that this was not the issue before me in this hearing and that the Landlord could make his own Application for Dispute Resolution to end the tenancy based on a 10 day Notice to End Tenancy. However, I also instructed the Landlord that he must inform himself of his rights and his obligations under the Act, and that once the Landlord accepted rent from the Tenant he was bound to follow the Act.

Likewise, I explained to the Tenant he is unable to withhold rent without some authority to do so under the Act. The fact that this may or may not be an illegal suite is not relevant to the issue of rent being paid. The Tenant is obligated to pay rent under section 26 of the Act, unless there is an Arbitrator's order allowing him to deduct an amount from rent, or some other authority under the Act to do so.

Both parties were advised to speak to an Information Officer at the branch, and to inform themselves about their rights and obligations under the Act.

Conclusion

The Notice to End Tenancy is cancelled as it was invalid. The Landlord failed to indicate the cause to end the tenancy on the Notice to End Tenancy. The tenancy will continue until ended in accordance with the Act. The Tenant may deduct \$50.00 from one month of rent for the filing fee for the Application.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 03, 2014

Residential Tenancy Branch

