



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for an order seeking landlord's action to comply with the *Act*. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant.

Issues to be decided

Is the landlord acting in a manner that is noncompliant with the *Act*?

Background and Evidence

The tenancy started in December 1999. The rental unit consists of an apartment located in a building complex. Both parties agreed that the building is not a smoke free building and residents are permitted to smoke inside the building.

The tenant testified that the occupants of the unit below smoke marijuana and the smoke rises into his apartment and aggravates his lung condition. The tenant filed multiple letters from doctors to confirm that he suffers from chronic lung disease. One letter specifically mentions that the tenant's symptoms are triggered by marijuana smoke. In July 2014, the tenant made a request to be transferred to another unit which would be more suitable for his condition. The landlord accepted his request and informed him that the transfer would take place as soon as a unit became available.

The landlord testified that the occupants below do not have a permit to smoke marijuana and that he gave them verbal warnings to cease this activity. Despite the warnings the activity still continues. During the hearing the landlord agreed to follow up on his verbal warnings and to do what it takes to ensure that the smoking of marijuana stops.

Analysis

Based on the sworn testimony of both parties, I find that the landlord's policy permits smoking inside the building but does not permit the smoking of marijuana without a permit to do so. I order the landlord to take appropriate steps to enforce this policy. The landlord may achieve this by issuing warning letters and an eviction notice if the activity persists.

Conclusion

I order the landlord to take the necessary measures to ensure that the smoking of marijuana inside the building ceases.

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: January 02, 2015

Residential Tenancy Branch

