



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: CNC

Introduction

The tenant applied for an order pursuant to section 47(4) of the Residential Tenancy Act to set aside a Notice of End a Residential Tenancy for Cause dated January 28, 2016 and setting the end of tenancy for February 28, 2016.

Issue(s) to be Decided

Is the tenant entitled to an Order cancelling the Notice?

Background and Evidence

A hearing was conducted in the presence of the applicant/tenant only. Based on the evidence of the tenant I find that the application for dispute resolution was personally served on the respondent on February 9, 2016.

The tenant testified that his tenancy began on September 1, 2015 when he moved into the unit as roommate with another individual. He paid his rent to the respondent who is agent of the landlord. Accordingly I find that a tenancy began on September 1, 2015 with rent amounting to \$ 475.00 per month. The tenant paid a security deposit at the beginning of the tenancy amounting to \$ 237.50.

The landlord's agent who is the respondent did not attend the hearing notwithstanding the elapse of fourteen minutes.

The tenant sought an Order cancelling the Notice to End the Tenancy for Cause aforementioned.

Analysis

The Notice to End a Residential Tenancy relies on section 47(1) (d) (i) and (e) (ii) of the Residential Tenancy Act. That section provides as follows:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property,

The burden of proof on an application for an order for possession for cause rests with the landlord who must on the balance of probabilities establish cause. This onus must be satisfied strictly where the landlord seeks to end a tenancy. In this matter the landlord failed to attend the hearing and accordingly did not satisfy the requisite burden of proof for cause. Accordingly I allow the tenant's application and have cancelled the Notice to End the Tenancy.

Conclusion

I have cancelled the Notice of End a Residential Tenancy dated January 28, 2016 and setting the end of tenancy for February 28, 2016. The tenancy is confirmed.

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: March 29, 2016

Residential Tenancy Branch