



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction:

This hearing dealt with an application by the tenant for an order to set aside a Notice to End Tenancy for Cause. Both parties attended the hearing and had opportunity to be heard.

The landlord testified that he had received the tenant's evidence and had served his evidence on the tenant by email. The tenant stated that he had not received the landlord's evidence. The landlord also stated that he had filed his evidence on the dispute website as instructed to do so. Upon review of the electronic file, there was no evidence filed by the landlord.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began in March 2017. The monthly rent is \$1,350.00 payable on the first of each month. The tenant's room mate is also named on the tenancy agreement.

The landlord testified that he received complaints from the occupant of the suite below about noise disturbances. The landlord also alleged that the tenant had a "drug lab" in the spare bedroom. The landlord agreed that he has not seen the "lab". The landlord spoke of police visits to the rental unit.

On January 31, 2023, the landlord served the tenant with a one month Notice to End Tenancy for Cause.

The Notice was served for the following reasons;

1. Tenant or a person permitted on the property by the tenant:
 - has significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
 - put the landlord's property at significant risk.
2. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
3. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the property.
4. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord.
5. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The tenant denied all the allegations and the landlord admitted that he had not served the tenant with warning letters or documentation of any other incidents to support the Notice to End Tenancy for Cause.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged on the notice to end tenancy for cause.

Based on the testimony of both parties, I find that the landlord did not file any evidence to support the Notice to End Tenancy for Cause. His case is entirely dependent on his version of events, a version that is disputed by the tenant who offered his own version of events. I have no basis for favouring one version over the other.

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim.

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 the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. In this case, the landlord did not have adequate evidence to support his version of events.

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy dated January 31, 2023. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving the landlord and other occupants of the rental property, reason to complain. I find it timely to put the tenant on notice that, if these alleged behaviours were to occur in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

Conclusion

The Notice to End Tenancy for Cause dated January 31, 2023, is set aside and the tenancy will 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: June 02, 2023

Residential Tenancy Branch