

DECISION

Dispute Codes: CNC

Introduction

This application was brought by the tenants seeking to have set aside a Notice to End Tenancy for cause – repeated late payment of rent; jeopardizing the health, safety or lawful right of another tenant or the landlord; putting the landlord's property at significant risk and damage to the landlord's property.

The notice was dated October 4, 2010 and set an end of tenancy date of December 4, 2010.

Despite having been served with the Notice of Hearing, the landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This matter required a decision on whether the Notice to End Tenancy should be set aside or upheld.

Background and Evidence

According to the tenant, this tenancy began on March 1, 2009. Rent is \$500 per month and there is no security deposit. The tenant stated that the present landlord took possession of the two and one-half acre property with five residential buildings in May 2010.

During the hearing, the tenant gave evidence that his rent had been late only once and that the landlord had expressed no concern on that occasion. There had been a second occasion when, not finding the landlord at her home on the rental property he same property as the rental unit - on the first day of the month, he delivered the rent on the second.

The tenant stated that he had no knowledge of the basis for the landlord's other claims for cause.

Analysis

While section 47 of the Act makes provision for a landlord to issue a Notice to End Tenancy for cause, if the Notice is challenged in an application for dispute resolution by the tenants, the onus is on the landlord to prove that cause exists to end the tenancy.

In the absence of any documentary evidence from the landlord and in the absence of her participation in the hearing, I am unable to find any reason to uphold the Notice to End Tenancy.

Conclusion

The Notice to End Tenancy of October 4, 2010 is set aside and the tenancy continues.

October 4, 2010