

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the by the tenant seeking to set aside a Notice to End Tenancy for Cause that was served on the tenant on February 2, 2011. Both parties participated in the conference call hearing. All parties gave affirmed testimony.

Issues to be Decided

Is the tenant entitled to an Order cancelling the Notice to End Tenancy for Cause?

Background and Evidence

The tenancy began on or about October 1, 2005. Rent in the amount of \$554.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$350.00. The landlord provided oral and documentary evidence and also had a police officer give testimony. The landlord and the constable gave evidence of an extensive drug investigation that was being conducted on the rental unit. They also provided evidence that an authorized individual was residing with the tenant. The police officer provided evidence that both individuals had been under police surveillance for four months which ultimately resulted in the Emergency Response Team being deployed. Both parties of the rental unit have been criminally charged regarding this police investigation. The landlord explained that this is a facility that operates under the auspices of government housing and the facility houses many at risk vulnerable individuals. The landlord advised many had approached her and expressed their fear for their safety and the safety of the building. The Residential Tenancy Policy Guideline states in Section 6 Right to Quiet Enjoyment "Tenants are entitled to reasonable privacy, freedom from unreasonable disturbance, exclusive possession, subject to the landlord's right of entry

under the Legislation, and the use of common areas for reasonable and lawful purposes, free from significant interference.

The tenant gave evidence that she had no knowledge of the criminal activity. She did acknowledge that she had been criminally charged in the drug investigation and that the co-accused had been staying with her “a lot”. She gave testimony that she no longer associates with the accused, she is sure the charges are going to be “dropped” and that there would be no more issues with her. She offered to be on a “conditional tenancy” where if there were any further issues with her, she would voluntarily leave.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the application, in this case the tenant. The landlord provided extensive oral, witness and documentary evidence to support their original Notice to End Tenancy for Cause. The tenant was unable to provide disputing evidence.

Conclusion

I dismiss the tenant’s application. The Notice to End Tenancy for Cause remains in effect and I grant the landlord an order of possession.

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 04, 2011.

Residential Tenancy Branch