

## **DECISION**

Dispute Codes      MT, CNC, FF

### Introduction

This is an application filed by the Tenant for more time to be allowed to cancel a notice to end tenancy issued for cause, to cancel the notice to end tenancy issued for cause and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing and submitted evidence packages, I am satisfied that both parties have been properly served.

It was clarified with both parties at the beginning of the hearing that the Tenant's application for more time (MT) was made in error and is withdrawn accordingly as the application was filed 2 days after being received.

### Issue(s) to be Decided

Is the Tenant entitled to an order cancelling a notice to end tenancy issued for cause?

### Background, Evidence and Analysis

Both parties agreed that the Landlord served the Tenant with a 1 month notice to end tenancy issued for cause dated October 28, 2012 on the same date. The Tenant applied for dispute resolution on October 30, 2012. The stated effective date of the notice is November 30, 2012. The reason for cause listed is, "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 or the Landlord."

The Tenant disputes the notice stating that there is no illegal activity. The Landlord has confirmed this stating that the wrong reason for cause was selected. As the Landlord has confirmed that the reason for cause selected was made in error and that the notice dated October 28, 2012 is not a valid one, the notice is set aside and the Tenancy shall continue. The Tenant's application is granted.

The Tenant is entitled to recovery of the \$50.00 filing fee. I order that the Tenant may withhold one-time \$50.00 from the January 2013 rent due to recover the filing fee. If

both parties agree prior to January 2013, the Landlord may make payment to the Tenant for the recovery of the \$50.00 filing fee.

Conclusion

The notice dated October 28, 2012 is set aside and the Tenancy shall continue in full force and effect.

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: December 04, 2012.

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Residential Tenancy Branch