



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Peak Property Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT

Introduction

Some documentary evidence and written arguments have been submitted by the tenant prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a notice to end tenancy that was given for cause.

Background and Evidence

The landlord testified that the notice to end tenancy was originally mailed to the tenant on January 24, 2013 by registered mail; however the landlord has provided no evidence in support of this claim.

The tenant has admitted however the landlord personally served him with the Notice to End Tenancy on February 13, 2013.

Landlord testified that:

- He has provided no evidence for today's hearing because the Notice to End Tenancy that he mailed to the tenant was returned to him by Canada Post, and therefore he believed that it would not be considered served.
- Further, other tenants in the rental property who were witnesses to the incidents are unwilling to testify or provide their names on any witness letters.
- He therefore has no evidence to support this claim; however he was told that last weekend the tenant was running around the property naked and screaming and disturbing the other occupants of the property.

The tenant testified that:

- He had a medical condition and blacked out and does not know what he did, however he does know that he was not naked at the time.
- He does know that he was yelling and may have disturbed some other tenants; however it was due to a condition brought on by liver failure.
- He ended up in hospital where the condition was diagnosed and is now being treated.
- This problem therefore should not recur.

Analysis

It's my finding that the landlord has not met the burden of proving the reasons given on the notice to end tenancy, as the landlord has provided no evidence in support of these claims.

The tenant has admitted to yelling which possibly could have disturbed other tenants; however the other tenants have provided no evidence of having been disturbed.

Therefore since there is insufficient evidence to uphold the Notice to End Tenancy, I find in favor of the tenant.

Conclusion

The Notice to End Tenancy dated January 21, 2013 is hereby canceled and this tenancy continues.

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 13, 2013

Residential Tenancy Branch

