



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for the recovery of the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

Both parties agreed that the tenancy began on August 15, 2013. The monthly rent is \$1,500.00 payable on the first of each month. The tenant rents a duplex and occupies one half of the duplex. The tenant stated that he is a pastor and uses the other half of the duplex for parishioners of the church. The tenant stated that at the start of tenancy he had explained this arrangement to the landlord and the landlord requested him to write two sets of post-dated rent cheques in two different names. Each set would cover one half of the duplex.

The parties agreed that on September 24, 2018, the landlord served the tenant with a notice to end tenancy for cause. The reason for the notice is that the tenant has assigned/sublet the rental unit without the written consent of the landlord. The tenant disputed the notice in a timely manner.

A few minutes into the hearing after the initial testimony, I heard a female voice screaming hysterically. It was unclear what was being said but it sounded like the person who was screaming needed help. The landlord abruptly hung up and left the hearing by conference call. The tenant and I waited for about five minutes and since the landlord did not return, I ended the conference call.

Analysis

In order to support the notice to end tenancy, the landlord must prove the grounds alleged, namely that the tenant has assigned/sublet the rental unit without the written consent of the landlord.

The landlord did not return to the hearing to present her testimony and prove that she had reason to end the tenancy. Therefore I allow the tenant's application and set aside the landlord's notice to end tenancy dated September 24, 2018. As a result, the tenancy shall continue in accordance with its original terms.

Since the tenant is successful in his application, I award him the recovery of the filing fee of \$100.00. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for **\$100.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

I grant the tenant a monetary order in the amount of \$100.00.

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: November 13, 2018

Residential Tenancy Branch