



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNR CNC FF

Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for cause and a notice to end tenancy for unpaid rent.

Issue(s) to be Decided

Should the notice to end tenancy for cause be cancelled?

Should the notice to end tenancy for unpaid rent be cancelled?

Is the landlord entitled to an order of possession on either notice, or will the tenancy continue?

Background and Evidence

The evidence of the landlord is as follows. The landlord issued a notice to end tenancy for cause on the following grounds: (1) the tenant has significantly interfered with or unreasonably disturbed the landlord; (2) the tenant has put the landlord's property at significant risk; (3) the 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; and (4) the tenant has not paid a pet damage deposit and has an animal without consent. In the hearing, the landlord's testimony on these points was that the tenants have cats even though the tenancy agreement does not allow pets, they smoke cigarettes in the driveway and throw the butts into the neighbours' yards, and they constantly disturb and yell at the landlord, and they call the police on the landlord. The landlord also stated that the tenants are constantly demanding

unreasonable repairs when the City of Vancouver has confirmed in writing that the required upgrading work for the rental unit has been satisfactorily completed. The notice to end tenancy for cause is dated August 31, 2008, with an effective date of September 30, 2008. The landlord's testimony on service of the notice for cause was first that the notice for cause was served personally on the tenant on August 31, 2008, but later in the landlord's testimony he referred to service of both the notice for cause and the notice to end tenancy for unpaid rent as having occurred on September 2, 2008. In regard to the notice for unpaid rent, the landlord's testimony was that the tenants did not pay rent when it was due on September 1, 2008, and the landlord did not receive payment for September's rent until September 8, 2008. The landlord asked for an order of possession against the tenants.

The evidence of the tenants is as follows. At the start of the tenancy, the landlord promised to fix several things, but to date he still has not done so. Every time the landlord comes to collect the rent, the tenants remind the landlord to carry out repairs, but the landlord refuses to do so. The landlord is verbally abusive and hostile to the tenants in response to their requests. On July 2, 2008 the landlord showed up to collect the rent and was intoxicated, and because the landlord was being verbally abusive the tenants felt the need to call the police. The landlord often shows up and enters the rental unit without giving the tenants any notice. The tenants were not trying to fight with the landlord, they were just trying to get things done. The tenants acknowledged that they were taking care of a friend's cat, but there is no longer any cat in the rental unit. The evidence of the tenants in regard to service of the notices is that that the landlord served both notices on September 2, 2008. The tenants dispute the notice for unpaid rent, and gave testimony that they paid the rent on September 1, 2008 and it was deposited in the landlord's bank account on September 2, 2008. The tenants have provided as evidence a bank statement showing a cheque in the amount of \$1000 cashed on September 2, 2008.

Analysis

In considering all of the documentary and testimonial evidence, I find that I prefer the evidence of the tenants as more credible and consistent than that of the landlord. I find that the tenants paid the rent on September 1, 2008. I further find that the landlord did not serve the notice for cause until September 2, 2008. I am not satisfied that the landlord has established sufficient cause on any of the grounds claimed to end the tenancy.

Conclusion

I hereby cancel both the notice to end tenancy for cause and the notice to end tenancy for unpaid rent, with the effect that the tenancy continues.

The tenants are entitled to recovery of their \$50 filing fee, which they may deduct from next month's rent.

Dated September 30, 2008.