



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

CLC

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The parties gave affirmed evidence and this Hearing proceeded on its merits.

Issue(s) to be Decided

This is the Tenant's application to cancel a One Month Notice to End Tenancy for Cause issued February 24, 2009.

(1) Should the Notice to End Tenancy be cancelled?

Background and Evidence

Facts on which the parties agree:

The Tenant personally served the Landlord with the Notice of Hearing documents on March 3, 2009, at the rental property.

Landlord's testimony and evidence

The Landlord gave the following reason as cause to end the tenancy:

- The Tenant has significantly interfered with or unreasonably disturbed another occupant.

The Landlord testified that the Tenant has lived in the rental property since March, 2004. The Landlord stated that despite receiving numerous written and verbal warnings, the Tenant causes late night disturbances which seriously disturb other residents in the building. The Landlord testified that he has made every effort to be fair to the Tenant but had no other choice than to issue the Notice to End Tenancy in fairness to the other tenants in the building.

The Landlord provided 26 pages of written evidence in support of the Notice to End Tenancy, including warning letters sent to the Tenant regarding noise disturbances and complaints from other tenants in the building.

The Landlord requested an Order of Possession.

Tenant's testimony

The Tenant acknowledged receiving the Landlord's evidence package. The Tenant admitted to all of the alleged occurrences except the last one. The Tenant testified that it was someone else who was loudly knocking on his friend's door (his next-door-neighbour) at 1:30 a.m. The Tenant stated that he has never seen the other person before and doesn't know who he was. The Tenant stated that he started lightly knocking on his neighbour's door after the other person left.

Analysis

I have carefully considered the written evidence and oral testimony of both parties. I find that the Landlord has sufficient cause to evict the Tenant on the grounds stated in the Notice to End Tenancy. The Tenant's application to cancel the Notice to End Tenancy is dismissed.

The Tenant's advocate asked the Landlord if he would consider extending the date on an Order of Possession, to May 30, 2009, in order to allow the Tenant more time to secure alternate accommodation.

The Landlord agreed to extend the date to May 30, 2009, on the condition that if the Tenant caused any further disturbances, the Landlord could serve the Tenant with an Order of Possession effective 72 hours after service of the Order.

Conclusion

The Tenant's application to cancel the One Month Notice to End Tenancy is dismissed.

On application of the Landlord, I issue two Orders of Possession in favour of the Landlord, one for 1:00 p.m., May 30, 2009, and the other effective 72 hours after service of the Order.

The Landlord will only use the 72 hour Order of Possession if the Tenant continues to cause excessive noise or disturb the other tenants. Otherwise, the Tenant must give vacant possession of the rental unit to the Landlord by 1:00 p.m., May 30, 2009. An Order of Possession must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

April 28, 2009
