

## **DECISION AND REASONS**

### **Dispute codes**

CNC

### **Introduction**

This hearing was convened in response to an application by the tenant to cancel a 1 Month Notice to End Tenancy for Cause (the Notice to End), with the stipulated reason as: *significantly interfered with or unreasonably disturbed another occupant or the landlord.*

Both the tenant and the landlord appeared in the conference call and each participated in the hearing via submissions and affirmed testimony.

At the outset of the hearing the landlord verbally requested an Order of Possession effective for June 30, 2009.

### **Issue(s) to be decided**

Is there sufficient cause to end the tenancy?

Is the landlord entitled to an Order of Possession?

### **Background and evidence**

This tenancy began February 01, 2009. The tenant occupies a “subsidized rental unit” operated by the landlord: a housing entity that has an agreement regarding the operation of residential properties with the British Columbia Housing Management Commission or Canada Mortgage and Housing Corporation.

The landlord’s representative (the landlord) testified he is the building manager who is tasked with managing all issues in the housing complex. The tenant is a single mother with children aged 2 and 3 years, who resides at the top floor of 4 storey apartment complex. The tenant rent is \$390 per month.

The landlord testified that within the tenant’s complex there is a multi-cultural mix of families, and in particular 34 families with children of varied ages, some with children

the same age as the tenant. The landlord stated that during this tenancy he has received numerous complaints about noise emanating from the tenant's suite from suites adjacent and below the tenant. He states that the number of complaints about the tenant during her short tenancy are extraordinary compared to complaints rarely received about all the other families. The complaints have been both verbal complaints and some written complaints to the landlord.

- In the week of February 16, 2009 the landlord states he gave the tenant a verbal warning after complaints of excessive noise after 11:00 p.m.
- On February 26, 2009 the landlord issued the tenant a written warning for excessive noise after 11:00 p.m. - along with this warning letter were 3 pages of written rules ( and addendum to the tenancy agreement first received at the outset of the tenancy) with sections highlighted for the tenant. The highlighted sections included rules pertaining to the supervision of children, and cautions about loud noise after 11:00 p.m. – “this is to ensure young children and working adults can sleep” - *addendum*
- On April 22, 2009 the landlord received a written complaint from an adjacent neighbour of, “loud shouting and scolding towards the children”, and “ lots of disturbances during early mornings and late evenings”. This occupant wrote that they made reasonable attempts to discuss their complaint with the tenant, but knocks on her door were ignored.
- On May 03, 2009 the landlord issued the tenant a second written letter for excessive noise after 11:00 p.m. – further warning the tenant that a third notice would be a Notice to End.
- On May 04, 2009, apparently in response to the second letter, the tenant alerted Police via 911, purportedly frustrated. Police arrived at the unit and arranged social services assistance to the tenant. The same day the landlord received a letter from the tenant alleging that she was being singled out and that the landlord's representative was discriminating against her due to her racial origin and that she is, “ poor “, and that complaints to the landlord were lies.
- Also on May 04, 2009 the landlord received another letter of complaint from the occupant below the tenant, complaining of excessive noise, “almost daily with loud shaking and jumping on floors very late at night, sometimes as late as 1:30 a.m. to almost 4 a.m.
- Also received on May 04, 2009 from another occupant below the tenant, a letter complaining of, “loud banging and kids screaming”.

The landlord stated he has tried several ways to approach the tenant and resolve the issues between the tenant and other occupants, but has determined the tenant is defensive, blaming of others and uses her children as an excuse and does not sufficiently control her children. He stated he would willingly relocate the tenant in another suite, like a ground floor unit, if he had another suite, but no suite of any sort is

coming up in the foreseeable future. He must therefore regretfully take the position that the tenant should vacate for the sake of other tenants.

The tenant disputes all of the landlord's allegations and assertions and blames the landlord by saying he simply dislikes her and has wanted to evict her from the start of the tenancy. The landlord responded to this statement by saying he personally approved the tenant for the suite and that he may dislike the problems she presents to the complex, but has empathy for her situation. The tenant also stated that the building is old, poorly constructed and lacks soundproofing for any family, especially a family with young children - she has her hands full with 2 young children and being a single mother and does not need now to be forced to move out of her affordable rental unit. Besides, the tenant stated, she has nowhere to go June 30<sup>th</sup>., except back to the shelter where she was previous to this tenancy.

### **Analysis**

On the preponderance of the evidence I prefer the evidence and testimony of the landlord over the evidence and testimony of the tenant. In short, I find the landlord has met the burden of proof in showing he has sufficient cause to end this tenancy on the basis the tenant has *significantly interfered with or unreasonably disturbed another occupant or the landlord*. Accordingly, I dismiss the tenant's application to cancel a notice to end tenancy for cause, and I find that the landlord is entitled to an order of possession.

### **Conclusion**

**I hereby order** the tenancy will end. The tenant's application is dismissed.

I grant an Order of Possession to the landlord effective not later than **1:00 p.m., Friday, July 31, 2009.**

Ending a tenancy is a serious matter. The landlord has discretion as to whether to issue the Order, and can, alternatively, choose to resolve this matter versus ending the tenancy. However, if the landlord determines to end the tenancy, this

Order must be served on the tenant. Should the tenant then fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Dated June 15, 2009.