



Dispute Resolution Services

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

Decision

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for cause. One of the two tenants and the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy is a month-to-month tenancy with monthly rent of \$750 due in advance on the first day of the month.

On August 2, 2009 the landlord served the tenant with a notice to end tenancy for cause, citing the following reasons for ending the tenancy: (1) the tenant has repeatedly paid the rent late; and (2) the tenant has (a) significantly interfered with or unreasonably disturbed another occupant; (b) seriously jeopardized the health or safety of another occupant or the landlord; and (c) put the landlord's property at significant risk. The landlord also cited the cause of allowing an unreasonable number of occupants, but indicated in an added handwritten note that this cause referred to more than 40 animals that the tenant had in the rental unit. In the hearing, the landlord testified that other than the issue of repeated late payment of rent, the other causes cited all referred to the animals and the disturbance, health risks and damage they were causing.

The landlord's evidence on repeated late payment of rent was as follows. The landlord

submitted copies of receipts showing that rent was received after the first of the month every month in 2009, as well as on several other occasions in 2007 and 2008. The landlord stated that on several occasions he attended at the rental unit on the first of the month and the tenant told him that she didn't have the rent that day. The landlord could not recall which specific months attempted to collect the rent on the first day of the month.

The landlord's evidence regarding the animals was as follows. The tenant had over 40 animals in the rental unit, including cats, rabbits, guinea pigs and rats. There was a terrible smell coming from the rental unit that could be smelled even from the outside and was disturbing other tenants and putting their health at risk. The landlord was concerned about damage to the rental unit. On November 29, 2008 the city bylaw officer inspected the rental unit and ordered that the tenant reduce overcrowding of the animals. When the bylaw officer followed up in a subsequent visit, the tenant still had not addressed the problem.

In the hearing the landlord verbally requested an order of possession pursuant to the notice to end tenancy.

The response of the tenant was as follows. The tenant did not keep cash in the rental unit, so if the first day of the month fell on a Saturday, Sunday or holiday, the tenant would not have the money to pay the rent and would not be able to withdraw that amount from the bank machine. On many occasions, the landlord did not come to pick up the rent until after the first day of the month.

In regard to the animals, as of last week the tenant had all of the rabbits, guinea pigs, rats and mice removed, and now the only animals that remain are five cats. There are several other tenants in the building who have pets, and their pets are also causing odours.

Analysis

In regard to the repeated late payments of rent, the landlord did not provide adequate evidence to establish that he attempted but was unable to collect rent from the tenant on the first day of the month on at least three recent occasions. I therefore cannot find sufficient cause to end the tenancy on this ground.

In regard to the more than 40 animals that the tenant had in the rental unit, I accept the landlord's testimony that the animals were causing odours and likely damaging the rental unit. The tenant acknowledged that most of the animals were still in the rental unit at the time that the notice to end tenancy was issued. I therefore find that at the time of the notice, the tenant's animals were putting the landlord's property at risk and creating a potential health hazard. I therefore find that the landlord has established cause to end the tenancy on this ground.

The landlord has requested and is entitled to a notice to end tenancy. The landlord served the notice to end tenancy on August 2, 2009. The effective date of the notice is therefore automatically corrected to September 30, 2009.

Conclusion

The tenant's application is dismissed. I grant the landlord an order of possession effective September 30, 2009. The tenant must be served with the order of possession. Should the tenant 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 September 22, 2009.