

DECISION

Dispute Codes

CNC, OPT

Introduction

This is the Tenants' application to cancel a Notice to End Tenancy for Cause; and for an Order of Possession of the rental unit.

Both parties attended and gave affirmed testimony and the matter proceeded on its merits.

Issues to be Determined:

Should the Notice to End Tenancy for Cause issued March 16, 2010 be cancelled?

Background and Evidence

The Landlord's agent testified that the Notice to End Tenancy was handed to the Tenant's mother at the rental unit on March 16, 2010. The Landlord believes the Tenant's mother is living at the rental unit, but cannot say for certain.

The Tenant acknowledged that he received the Notice to End Tenancy on March 16, 2010.

The Landlord seeks to end the tenancy for two causes:

- The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and
- The Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk.

The Landlord's agent testified that the Tenant has received numerous verbal and written warnings regarding the Tenant's loud parties; swearing and drinking on the common property. The Landlord's agent testified that other tenants have threatened to end their tenancies as a result of the disturbances and noise coming from the Tenant's rental unit and from the Tenant and his invited guests drinking and swearing on the common property. The Landlord requested an Order of Possession effective May 31, 2010.

The Tenant denied putting the Landlord's property at significant risk. The Tenant stated that he and his invited guests have been loud prior to the Landlord issuing the Notice to End Tenancy, but since receiving the Notice there has been an improvement. The Tenant stated that he has a neighbour who is just as noisy as the Tenant, and has parties and drinks alcohol on the common property.

Analysis

The Landlord did not provide any evidence to support ending the tenancy because the Tenant has put the Landlord's property at significant risk.

The Tenant agreed that he had disturbed other occupants at the rental property prior to the issuance of the Notice to End Tenancy and that he had received warnings with respect to the disturbances. Therefore, I find that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. The Tenant's application to cancel the Notice to End Tenancy is dismissed.

Although the Landlord did not serve the Tenant in accordance with the provisions of Section 88 of the Act, the Tenant admitted receipt of the Notice to End Tenancy on March 16, 2010. Pursuant to the provisions of Section 71(2)(b) of the Act, I find that the Tenant was sufficiently served with the Notice on March 16, 2010.

Based on the date the Tenant received the One Month Notice to End Tenancy, the effective date of the end of tenancy was Apr 30, 2010. The Landlord's agent requested an Order of Possession for May 31, 2010, in order to allow the Tenant time to find alternate accommodation. Pursuant to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., May 31, 2010.**

Conclusion

The Tenant's application is dismissed.

I hereby grant the Landlord an Order of Possession **effective 1:00 p.m. May 31, 2010.** This Order 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.

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: May 13, 2010