

DECISION

Dispute Codes CNC MNDC OLC PSF LRE RR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for cause, to obtain a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to obtain an Order to have the Landlord comply with the Act, regulation, or tenancy agreement, provide services or facilities required by law, suspend or set conditions on the landlord's right to enter the rental unit, allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail. The Landlord confirmed receipt of the hearing package.

The Landlord and Tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Tenant entitled to Orders under sections 32, 47, 62, 65, and 67 of the *Residential Tenancy Act*?

Background and Evidence

The verbal month to month tenancy began on March 2, 2008 and the current rent is payable on the first of each month in the amount of \$650.00.

The Landlord testified that he rented the one bedroom plus den basement suite to the Tenant and that the Tenant allowed her parents to move in sometime around May or June 2008, then the Tenant's husband moved in during August or September 2008 ,and then the Tenant had a child approximately two years ago. The Landlord argued that he asked the Tenant to move out verbally some time ago, because there were too many people in the unit, and when she did not move out he posted a 1 Month Notice to End Tenancy to the door on May 9, 2010.

The Tenant testified and argued that the Landlord knew from the onset of the tenancy that her parents and husband would be joining her in the rental unit. Her parents arrived and moved in on approximately March 4, 2008, only two days after she occupied the unit, then her husband arrived and moved into the unit on July 31, 2008. The Tenant confirmed that her child was born on May 1, 2009.

The Tenant argued that she had never received any previous verbal requests from the Landlord to move and that recently the Landlord became drunk and abused her husband. The police were called to create a file and the Tenant believes this is why the notice to end tenancy was issued.

The Tenant has noted on her application for dispute resolution that the Landlord has disturbed her family's peace, that he has turned off the heat to the basement suite, and has abused her husband.

Analysis

All of the testimony and documentary evidence was carefully considered.

The Landlord has issued a 1 Month Notice to End tenancy under section 47(1)(c) of the Act, claiming that the Tenant was to be the only occupant of the rental unit. The evidence supports this tenancy is based on a verbal agreement and there is opposing testimony as to the terms of the tenancy agreement. In the case of verbal agreements, I find that where verbal terms are clear and both the Landlord and Tenant agree on the

interpretation, there is no reason why such terms cannot be enforced. However when the parties disagree with what was agreed-upon, the verbal terms, by their nature, are virtually impossible for a third party to interpret when trying to resolve disputes as they arise. That being said, I must rely on the undisputed testimony which in this case supports that the Tenant's parents and spouse have occupied the rental unit with the Tenant for a period of over two years and the Tenant's child has resided in the unit for almost one full year. Therefore I find the terms of the verbal tenancy agreement include the Tenant, her parents, her spouse, and her child, as rightful occupants of the rental unit.

Having found the terms of the tenancy agreement to include five occupants, as listed above, I find the 1 Month Notice to End Tenancy issued May 29, 2010, not to have been issued in accordance with section 47 of the Act, and is hereby cancelled.

The evidence supports there has been a police file created and the Tenant has requested the Landlord be ordered to comply with the Act. Therefore, in accordance with section 62 of the Act I hereby Order the Landlord to comply with the *Residential Tenancy Act*. I wish to emphasis that the Landlord **must** provide services or facilities required by law, which include heat, water, and electricity, **without interruption, effective immediately.**

The Landlord is also Ordered to comply with sections 29 and 30 of the *Residential Tenancy Act* as listed below:

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

(c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;

(d) the landlord has an order of the director authorizing the entry;

(e) the tenant has abandoned the rental unit;

(f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

Tenant's right of access protected

30 (1) A landlord must not unreasonably restrict access to residential property by

(a) the tenant of a rental unit that is part of the residential property, or

(b) a person permitted on the residential property by that tenant.

(2) A landlord must not unreasonably restrict access to residential property by

(a) a candidate seeking election to the Parliament of Canada, the Legislative Assembly or an office in an election under the *Local Government Act*, the *School Act* or the *Vancouver Charter*, or

(b) the authorized representative of such a person who is canvassing electors or distributing election material.

In response to the Tenant's claim of \$250.00 for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and her request for reduced rent, there was not sufficient evidence provided to support these requests, therefore I dismiss these two claims. If the Tenant continues suffers a loss relating to her tenancy in the future, she is at liberty to file for monetary compensation.

The Tenant has sought recovery of the filing fee; however a fee was not collected.

Conclusion

The 1 Month Notice to End Tenancy issued May 09, 2010, is **HEREBY CANCELLED**, and is of no force or effect.

The Landlord is **HEREBY ORDERED** to comply with the *Residential Tenancy Act*.

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: July 2, 2010.

Dispute Resolution Officer