



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Code: CNC, OLC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

1. To cancel a Notice to End Tenancy given for Cause;
2. Seeking an Order that the landlord comply with the Act; and
3. An order to recover the filing fee paid for this application.

I accept that the landlord was properly served with the tenant's Application for Dispute Resolution hearing package.

Both parties appeared and gave evidence under oath.

Background, Analysis and Findings

The landlord testified that he issued the Notice to End Tenancy for Cause because of complaints received from the strata management company responsible for the building in which the rental unit is housed. The landlord testified that he has been fined because of noise complaints. In another instance a brother of one of the tenants moved out his furnishings out of the rental unit without booking the move through the strata manager as required. This resulted in a further by-law infraction fine being levied against the landlord.

In addition the landlord learned that while they were on vacation the tenants gave the keys to the rental unit to a friend who had 3 other men move in with him. On May 30, 2010, the four men were captured on the building's video surveillance cameras, apparently in a drunken state, vandalizing common areas of the strata building. The

landlord testified that he is being held responsible for making repairs to smashed windows and a kicked in door that is likely going to exceed \$1,000.00.

The tenants say that they were not in town when the May 30, 2010 incident occurred. The tenants say they had a friend staying in the rental unit to take care of it during their absence. The tenant says they are willing to take full responsibility for the damage and make payments to the landlord. The tenants say that they believed the landlord had forgiven them for the by-law infraction complaints and they could stay for up to a year.

Findings

The landlord has issued a Notice to End Tenancy pursuant to Section 47(1) alleging:

- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - (i) has caused or is likely to cause damage to the landlord's property,
- (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
- (g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) *[obligations to repair and maintain]*, within a reasonable time;

The evidence of the parties is similar. The applicant tenants do not deny that there have been noise complaints and an unauthorized move-out which caused the landlord to be fined by the strata corporation. More seriously however, the tenants do not deny that

they gave the keys to their rental unit to a friend who allowed others to come onto the strata property and vandalize the common areas causing damage for which the landlord will be held responsible. Based on this evidence I am satisfied that the landlord has cause to end this tenancy because the tenants, or persons permitted on the property by them, have significantly interfered with or unreasonably disturbed other occupants of the residential property and has jeopardized the lawful rights of other tenants, such as their right to quiet enjoyment of the premises, that they have put the landlord's property at significant risk and that they have allowed damage to be caused to the landlord's property. I therefore dismiss the tenants' application to cancel the Notice to End Tenancy.

At the hearing of this matter the landlord requested an Order of Possession. Having dismissed the tenant's application to cancel the Notice to End Tenancy I will therefore issue the Order of Possession effective August 31, 2010 at 1 p.m.

As this tenancy is ending I will not order the landlord to comply with the Act. This application is dismissed.

As the applicant's claim has been dismissed they are not entitled to recover the filing fee he paid for this application.

Conclusion

The landlord is provided with a formal copy of an Order of Possession. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.