

DECISION

Dispute Codes:

CNC, AAT, O

Introduction

This is the Tenant's application to cancel a Notice to End Tenancy for Cause; and for an order that the Landlord provide access to or from the rental unit.

The parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Should the Notice to End Tenancy for Cause issued June 30, 2010 be cancelled?
- Should the Landlord be ordered to provide access to the rental property?

Background and Evidence

The Landlord's agent gave the following testimony:

The Tenants are leaving the front doors of the rental property unlocked and unsecure, which is a safety concern for the other tenants in the building.

The rental property used to have a resident manager, and the front doors of the building were left unlocked during the day. There is no longer a resident manager at the rental property. There is no intercom or other system for guests to use to access the building.

On June 16, 2010, the male Tenant was drunk on the rental property and caused a disturbance by shouting and being verbally abusive towards the Landlord. The police

were called and the male Tenant was arrested for drinking in a public place and disturbing the peace. The Tenants were served with a Notice to End Tenancy on June 30, 2010.

On July 6, 2010, despite being served with the Notice to End Tenancy, the male Tenant was verbally abusive to the Landlord's agent when she was dropping off her personal garbage at the rental property. The male Tenant questioned her authority to use the garbage bins at the rental unit for her personal garbage. The Landlord's 11 year old son was with her. She directed the Tenant to go inside of the building, which he did, but he continued to scream abusive language through an open window.

The Tenants continue to leave the front doors of the building ajar and unsecure. No other tenants in the building have a problem with locking the front doors. The Landlord's agent is trying to keep the peace and a safe environment for all of the tenants.

The male Tenant gave the following testimony:

On June 16, 2010, he and a friend were walking around the rental property picking up beer cans and cleaning up the yard. The Tenant was not drinking. The Landlord's agent was showing a suite to potential renters and was using the trunk of his car as a writing table, which upset the Tenant. He was not shouting or being verbally abusive.

The male Tenant was given a ticket by the police for drinking in a public place, which the Tenant disputed in Court. The Judge dismissed the ticket and stated that there was no law against picking up beer cans.

The Tenants and other tenants in the building prop the front door open when they go outside for a cigarette, but they stand near the door and do not leave it open after they have finished. The Tenants have never tied the door open or otherwise left the building insecure when they are not outside having a cigarette. There is no intercom for the

building and some of the tenants are complaining because they cannot even get a paper delivered.

The Tenants have lived in the rental unit for 8 years and have never had a problem with anyone else, except the Landlord's agent. The Tenant believes the Landlord's agent has blown everything out of proportion and has an agenda to get him out of the building because of a previous relationship at a work place.

On July 6, 2010, the Tenant did not shout or swear at the Landlord's agent. He did call her a lazy bag, for which he apologized at the Hearing.

The Tenants' witness gave the following testimony:

The witness knows both of the parties and has no issues with either of them.

The witness lives in a building kitty corner from the rental unit. On June 16, 2010, she was on her patio having a smoke. She saw the Tenant speaking to the prospective tenants and the Landlord's agent. She didn't hear any shouting or screaming.

Two years ago, she and the Landlord's agent were going through job applications at their place of work and the male Tenant was an applicant. The Landlord's agent made negative comments about the male Tenant. She said that she had worked with the male Tenant before and that he was no good. The witness believes there are personal issues between the male Tenant and the Landlord's agent that have nothing to do with the tenancy.

Analysis

The Notice to end Tenancy gives the following reason for ending this tenancy:

The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

Based on the testimony of all of the parties, I do not find that the Landlord has provided sufficient grounds to end the tenancy. An impartial witness disagrees with the Landlord's agent's version of the events of June 16, 2010. The Landlord did not provide sufficient evidence that the male Tenant was drinking on the rental property on June 16, 2010, or that he significantly interfered with or unreasonably disturbed the Landlord's agent on that day. The Tenants' application is therefore granted. The Notice to End Tenancy issued June 30, 2010, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

Section 30 of the Act states:

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.

I accept the Landlord's agent's position that the rental property must be kept secure for the safety of all of the tenants, however there is currently no wireless intercom or other means of access provided to the building for tenants' guests or emergency providers.

Further to the provisions of Section 30 of the Act, I order the Landlord to provide access to the rental property.

Conclusion

The Notice to End Tenancy issued June 30, 2010, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

Further to the provisions of Section 30 of the Act, I order the Landlord to provide access to the rental property.

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: August 31, 2010.

Dispute Resolution Officer