



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC & FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for an Order of Possession based on a Notice to End Tenancy given under section 47 of the Residential Tenancy Act. The applicant is also requesting that the respondent bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution

Background and Evidence

On July 26, 2010 the tenant was served with a section 47 Notice to End Tenancy for cause.

The applicants testified that:

- The tenant is putting the safety of the other occupants of the rental property at risk by refusing to remove his personal items from the fire escape.

- The Vancouver Fire Department inspected the property and specifically stated in writing that they must "Maintain a 3 foot clearance around all fire escapes and landings from suite number 2 to the ground".
- The tenant has been given more than one written request to remove his numerous items from the fire escape, but refuses to do so, and now has even chained numerous bicycles together on the fire escape making it a real safety hazard.

The applicants believe therefore that the respondent is putting the safety of the other occupants of the rental property at significant risk as well as putting the property at risk and therefore they wished the Notice to End Tenancy to be upheld and an Order of Possession to be issued.

The respondent testified that:

- This is not a fire escape, it is his balcony and therefore he has the right to do whatever he wants on it.
- He was even told when he rented the property that beyond that door was his balcony.
- He does not consider this to be a fire escape because it does not meet the requirements of a fire escape as it has no exit signs, no exit light, no emergency lights etc..
- It is not feel he needs to comply with the Fire Department's notice of violation, because he is not in violation, the landlords are.

Analysis

It is my finding that the tenant is putting the safety of the other occupants of the rental property and the rental property itself at significant risk by refusing to remove his numerous items from the fire escape.

The tenant has decided that this is not a fire escape, it is his balcony, and therefore he can put whatever he wants on it; however it is my finding that this is definitely a fire escape.

The area in question was inspected by the Fire Department and it was determined that it is a fire escape and that failing to keep the area clear it was a violation. The tenant was notified of that violation and has repeatedly been asked to clear his belongings off of the fire escape and yet he refuses to do so.

The tenant claims that it cannot be a fire escape because it does not meet the requirements of a fire escape and therefore he can ignore the order from the Fire Department; however it is my decision that the tenant does not have the expertise to decide what is and is not a fire escape and if he feels that the fire escape is not up to proper standards perhaps that is something he should address with the Fire Department.

Having founded the tenant is putting the other occupants and the property at significant risk is my decision that I will uphold the Notice to End Tenancy and issue an Order of Possession, and there is no need to look at the numerous other reasons given for ending the tenancy.

Conclusion

I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenant and I further ordered that the tenant bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

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: September 22, 2010.

Dispute Resolution Officer