



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, MNDC, LRE, LAT, O

Introduction

This hearing dealt with the tenant's application to cancel a Notice to End Tenancy for Cause; for monetary compensation for damage or loss under the Act, regulations or tenancy agreement; for Orders to suspend or set conditions upon the landlord's right to enter the rental unit; authorization to change the locks to the rental unit; and other issues. Both parties appeared at the hearing and confirmed service of documents upon them. Both parties were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

Upon review of the documentary evidence provided to me I have amended the name of the landlord to reflect the landlord's correct name.

Issues(s) to be Decided

1. Should the Notice to End Tenancy be cancelled or upheld?
2. Has the tenant established an entitlement to compensation from the landlord for damage or loss under the Act, regulations or tenancy agreement?
3. Is it necessary to issue orders to the landlord to suspend or set conditions on the landlord's right to enter the rental unit?
4. Is there a basis to authorize the tenant to change the locks?
5. Can the parties reach a mutual resolution to this dispute?

Background and Evidence

I was provided the following undisputed evidence. The tenancy commenced in January 2006. The tenant is required to pay rent of \$290.00 on the 1st day of every month. The landlord is a senior citizen housing society operated by a Board of Directors with eight members. The tenant had the locks changed to her rental unit in January 2010 without the landlord's prior written consent. In June 2010 the landlord verbally instructed the tenant to change the locks back. On July 14, 2010 the landlord issued a letter to the tenant instructing her to change the locks back by July 28, 2010. Upon receiving the landlord's letter the tenant wrote to the landlord advising the landlord she suspected somebody had been breaking into her unit. The landlord issued two Notices to the tenant informing the tenant that the locks would be changed, the first time being September 6, 2010 and the second time being September 14, 2010. Both times the maintenance man was unsuccessful in changing the locks. On September 14, 2010 the landlord issued a 1 Month Notice to End Tenancy for Cause with an effective date of October 31, 2010. The tenant disputed the Notice within the applicable time period.

The 1 Month Notice indicates the reasons for ending the tenancy are:

- Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and,
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that both of the reasons indicated on the Notice pertain to the tenant changing the locks and interfering with the landlord's attempts to install a new lock set that will work with the master key system. The landlord referred to a provision in the tenancy agreement that prohibits a tenant from changing the locks without the landlord's prior written consent. The landlord indicated that he was willing to continue

with the tenancy if the tenant would allow the landlord to install locks that have been purchased by landlord at no expense to the tenant.

The landlord explained that there are four master keys and that the keys are only accessible by Board members. Any maintenance person would have to obtain a master key from a Board member.

The tenant testified that she discovered several items missing from her rental unit and that after she had the locks changed there were no more instances of theft. The tenant provided a three page typewritten inventory of items she claims went missing from her unit, including expensive jewellery. Upon enquiry, the tenant stated that she did not have receipts for the missing items as most of the items were gifts or brought from the Philippines. Upon enquiry, the tenant stated that she did not have theft insurance at the time of the thefts. The tenant claims she had made two police reports with respect to the thefts; however, a copy of a police reports were not provided to me.

Upon further enquiry, the tenant stated that she was not accusing the landlord of stealing her possessions and explained that she does not know who stole her items. The tenant was of the position that persons who have access to the master keys have not been screened or fingerprinted. The tenant requested compensation of \$25,000.00 from the landlord for loss of her personal property.

Discussion ensued with respect to the requirements of the Act for a tenant not to change locks without prior written consent of the landlord and the tenant's lack of documentary evidence. After much discussion pertaining to the tenant's options, the tenant stated that she could not feel secure and remain in the rental unit if the locks were changed to accommodate a master key. The tenant stated that she would vacate the rental unit by 7:00 p.m. on October 31, 2010. The landlord consented to a 7:00 p.m. departure time and requested an Order of Possession to reflect such an agreement.

Analysis

Section 63 of the Act provides that a Dispute Resolution Officer may assist the parties in reaching a resolution to their dispute. In light of the agreement reached between the parties during the hearing this tenancy shall end at 7:00 p.m. on October 31, 2010. I provide the landlord with an Order of Possession effective at 7:00 p.m. on October 31, 2010 to serve upon the tenant and enforce in The Supreme court of British Columbia if necessary.

As the tenancy is about to end the tenant's locks may remain in place until 7:00 p.m. on October 31, 2010 at which time the tenant must either remove her locks or provide the landlord with the keys to her locks.

As the tenancy is about to end and I did not find sufficient evidence of illegal entry by the landlord I do not find it necessary to consider the tenant's requests for Orders to suspend or set conditions upon the landlord's right to enter the unit. The landlord's limited right to enter the rental unit and the tenant's right to notice of entry remain as provided by section 29 of the Act.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. Verification of the value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this case I did not find sufficient evidence that somebody entered the tenant's unit as a result of the landlord's violation the Act, regulations or tenancy agreement. Nor did I find sufficient evidence to verify the value of the items allegedly stolen. Finally, the tenant did not satisfy me that she took reasonable steps to mitigate her losses, such as carrying insurance on her expensive jewellery. Therefore, I find the tenant did not meet the above test for damages and I dismiss the tenant's monetary claims against the landlord without leave to reapply.

Conclusion

The tenancy shall end October 31, 2010 at 7:00 p.m. by mutual agreement. The landlord has been provided an Order of Possession with this decision. The tenant may leave her locks on the rental unit until 7:00 p.m. on October 31, 2010 at which time she must remove the locks or provide the landlord the keys to the locks. I have dismissed the tenant's monetary claims against the landlord.

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: October 21, 2010.

Dispute Resolution Officer