



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant to cancel a notice for cause and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started on January 1, 2004 with monthly rent of \$430.00. The landlord did not collect a security deposit from the tenant. On October 8, 2010 the landlord served the tenant with a Notice to End Tenancy for Cause: the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that the tenant has a history of being verbally abusive and aggressive towards the building caretaker. The landlord advised the tenant in writing on May 19, 2010 and again on September 28, 2010 that this aggressive behaviour must stop, it has however continued.

Other tenants in the building are intimidated by the tenant's aggressive behaviour causing them to take steps to avoid contact with the tenant. The tenant has left a number of inappropriate notes for the caretaker and on occasion for other tenants. One note left for the caretaker states 'what a craphouse this place looks like due to this lazy landlady YUK!', another note left for the caretaker states 'LAZY, LAZY, LAZY'. On one occasion the tenant was seen throwing a heavy object at another tenant's boyfriend.

At least 2 tenants and the caretaker have advised the property manager that they are now afraid of the tenant and the landlord is concerned that the caretaker will quit and tenants will move out of the building because of this tenant and her behaviour.

The landlord has requested an order of possession for November 30, 2010 and may extend this date to December 15, 2010 if there are no further incidents involving the tenant.

The tenant stated that she did not know where the complaints came from and how she could be accused of harassing other tenants. The tenant in her evidence and testimony did admit throwing an object at a tenant's boyfriend. The tenant also admits to having

left notes for the caretaker regarding concerns she has had in the building. The tenant stated that she felt overwhelmed and could not respond to the evidence however the tenant's evidence package of November 8, 2010 reflects a detailed response to the landlord's October 25, 2010 evidence.

Analysis

Section 47 (d) (1) of the Act states that if a tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord the landlord may give the tenant notice to end the tenancy for cause.

The question remains whether the tenant has "significantly interfered with or unreasonably disturbed" other occupants. Each complaint about the tenant if taken separately might not be considered to be unreasonable. It cannot be ignored however that the property manager on 2 occasions has written to the tenant regarding her behavior and that the caretaker and at least 2 tenants are now afraid of the tenant because of the tenant's behavior towards them.

Based on the documentary evidence and undisputed testimony of the landlord, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to an order of possession for cause. The tenant's application is hereby dismissed without leave to reapply.

Conclusion

The one month Notice to End Tenancy for Cause is valid and the tenant's application to cancel it is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **1:00PM, November 30, 2010**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: November 12, 2010

Dispute Resolution Officer