

DECISION

Dispute Codes: CNC, MNDC and FF

Introduction

This application was brought by the tenants seeking to have set aside a one-month Notice to End Tenancy for cause served on September 24, 2010 and a Monetary Order for loss of quiet enjoyment and recovery of the filing fee for this proceeding.

As a preliminary matter, the landlord noted that the tenant's representative is not a party to the rental agreement and for that reason she had not accepted rent cheques from her out of concern that doing so would create a tenancy. The tenant's representative acknowledged that she was a temporary guest or occupant in the rental unit and made no claim to being a tenant. Consequently, the parties agreed and understand that the landlord was at liberty to accept rent cheques signed by the occupant on behalf of the tenant and would do so to bring the account up to date.

Issues to be Decided

This matter requires a decision on whether the Notice to End Tenancy should be set aside or upheld and whether the tenant is entitled to monetary compensation for loss of quiet enjoyment.

Background and Evidence

This tenancy in the lower portion of a double suited home began on July 1, 2003. Rent is \$700 and the landlord holds a security deposit of \$350 paid on or about July 1, 2003.

For the greater part of this tenancy, the landlord and her recently deceased partner lived in the upper portion of the rental unit and the tenancy appears to have been a happy one for that period. After the landlords left, two succeeding short term tenancies in the upper portion of the rental property resulted in conflict between the upper and lower tenants.

Consent Agreement

During the hearing, the occupant, who stated she had the tenant's full consent to act on his behalf, noted that the tenancy has become very stressful and unpleasant due to the ongoing conflict and agreed to enter into a Mutual Agreement to End Tenancy with the landlord.

The landlord welcomed that solution and agreed to an end of tenancy date of December 31, 2010.

The landlord gave assurance that she would counsel the upstairs tenant on her expectation that the upstairs tenant would take every reasonable measure to avoid disturbing and entering into conflict with the downstairs tenants for the duration of the tenancy.

In particular, the landlord stated that she would make unquestionably clear to the upstairs tenant the downstairs tenant's right to have his own mail box and that there was to be no interference with his right to access his mail.

The tenant's claim for monetary compensation was withdrawn.

Conclusion

To perfect this agreement, the landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on December 31, 2010.

The parties are commended for their consideration of one another in crafting this resolution.

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November 3, 2010