



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC

Introduction

This matter dealt with an application by the Tenants to cancel a Notice to End Tenancy for Cause.

The Tenants said they served the Landlords with the Application and Notice of Hearing (the "hearing package") by personal delivery on January 31, 2011. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call a written request to adjourn the hearing by the Tenant's advocate Y.B. was discussed. The adjournment request was so that the Tenant advocate Y.B. could attend the Hearing. The Landlord had told the Tenants prior to the meeting they did not want to adjourn the meeting. The Tenants agreed to withdraw their request for an adjournment as they had an Advocate to assist them with the hearing proceedings.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on July 1, 2010 as a month to month tenancy. The economic rent is \$1,342.00 per month however the Tenants are eligible for a subsidy, their rent is \$604.00 per month. Rent is due in advance of the 1st day of each month. The Tenants paid a security deposit of \$671.00 on June 14, 2010.

The Landlords said they served the Tenants with a 1 Month Notice to End Tenancy for Cause dated January 27, 2011. The Landlords said they served the Notice on January 27, 2011 by personal delivery to the Tenants. The Effective Vacancy date on the Notice is February 28, 2011. The Tenants are living in the unit and the Landlord requested an Order of Possession if the Tenants' application is unsuccessful.

The Landlord said the Tenants have significantly interfered with or unreasonable disturbed another tenants and occupants of the housing complex and the Landlord. The Landlord continued to say the Tenant has threatened tenants and the Landlord. The Landlord said they have sent the Tenant numerous Breach Letters resulting from incidences involving the complaints from other tenants. These complaints have involved the Tenant using abusive language to other tenants and their guesses, noise complaints because the Tenants were having loud parties, drunkenness and smoking marijuana in the rental unit. The housing complex is non smoking (clause # 17 of the tenancy agreement) and the housing complex rules state the use of drugs in the rental unit is not allowed (clause # 15 of the Rules and Regulations).

The Landlord sighted a number of incidences and provided the following witnesses to corroborate their claims:

Witness #1 J. M. Unit #15

The Witness said he had an incident with the Tenant in September 2010 in which the Tenant was drunk and called the witness names. The Witness said this disruptive behaviour upset him.

Witness #2 L.D. Unit #20

The witness said he saw the female Tenant intoxicated and she used abusive language towards the witness.

Witness #3 C.D. Unit #7

The Witness said they saw the Tenant lurking around their rental unit and the Tenant was taking pictures of their unit. The Witness said this made him feel very uncomfortable.

Witness #4 S.V. Unit #6

The witness said his wife is having a difficult pregnancy and the Tenant's harassment of them and their friends has been very difficult for his wife and him to deal with. He said the Tenant called a friend of theirs a bitch when she was visiting on January 25, 2011.

Witness # 5 L.D. Unit #22

The Witness said the Tenants were taking pictures of their rental unit and they didn't like the Tenant hanging around their back yard.

Witness #6 C.G. Administration assistant for the Landlord

The Witness said she heard the Tenant threaten the Landlord S.W. on the phone on February 8, 2011 by saying "They would make people pay for it".

The Landlord continued to say that there are more letters of complaint in their written evidence package. As well the Landlord said that many of these complaints resulted in incident reports and then Breach letters to the Tenants to stop the behaviour that created the complaints. The Landlord said the Tenants have not corrected their behaviour and the complaints have continuing. The Landlord submitted 19 letters of complaint from tenants in the evidence package with the latest complaint letter being dated February 4, 2011. As well the Landlord provided 9 copies of Breach Letters that have been sent to the Tenants.

The Tenants said that the complaints are not true. They said they do not smoke marijuana in the rental unit. They do not have parties or loud parties. The Tenant continued to say that they are not lurking around the other tenant's rental units and they are not taking pictures of the other tenant's units. The Tenant said they spoke with the RCMP about the picture taking complaint and the RCMP did not look at the Tenant's camera when it was offered to the RCMP to look at. The Tenant said the RCMP said if there was any more complaints about this someone may be charged with public mischief.

The Tenant continued to say she did not call S.V. Unit #6's friend a bitch and she said she hardly knows her.

The Tenant said that the allegations that they smoke in the rental unit is completely wrong and they do not smoke marijuana.

The Tenant said they have not threatened anyone at the housing complex and they don't understand why the Landlord has sent so many Breach Letters to them. The Tenant's Advocate said that she and her associates have been helping the Tenants as they found all the paper work and the situation very difficult to understand.

The DRO questioned the Tenants if they had any witnesses or other corroborative evidence that would support their claims. The Tenants said they did not have any witness and they did not have any additional evidence to support their position.

The Tenant did not deny saying to the Landlord that "they would make people pay for it" during the phone call on February 8, 2011 to the Landlord.

The Tenant said that their family is a low income family that like and needs this place to live. The Tenant's advocate said that the complaints against the Tenants are not strong complaints and some are vague and amount to hear say evidence. She continued to say that they made a settlement proposal to the Landlord prior to the hearing and the Landlord said no to it.

The Landlord ended by saying that they have an obligation to all their tenants to provide a safe and peaceful environment to live in. She continued to say there are a large number of complaints about the Tenants and the Tenants have not corrected the problems indicated to them in the Breach Letters. The Landlord said this has resulted in the 1 Month Notice to End Tenancy for Cause.

Analysis

Section 47 of the Act says the landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

Including (d) the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another tenants or the landlord of the residential property.

The Burden of Proof lies with the Landlord when issuing a Notice to End Tenancy for Cause. The Landlord must have supporting evidence that corroborate the Landlord's claims. The Landlord has provided 19 letters of complaint from a variety of the tenants in the rental complex all of whom have said their peaceful enjoyment of the property has been significantly interfered with or unreasonably disturbed by the Tenants. As well, the Landlord has provided witnesses that testified under oath that the Landlord's claims are valid.

In addition the Landlord has provided Beach Letters to the Tenant for corrective action and the Tenants said they did not respond to many of the Beach Letters. This may indicate a wilful intent not to adhere to the Tenancy Agreement or the Rules and Regulations of the housing complex.

I accept the evidence that the Landlord has provided and the testimony of the witnesses to established grounds for the Landlord to end the tenancy. A number of the other tenants in the rental complex have been significantly interfered with and or

unreasonably disturbed by the Tenants. As well, I accept the Landlord testimony that she was threatened on the phone by the Tenant during the phone call between the Landlord and the Tenant on February 8, 2011 in which the Landlord said she was significantly concerned for her own safety as well as the safety of the other tenants in the complex. Consequently I find for the Landlord. I dismiss the Tenant's application to Cancel the 1 Month Notice to End Tenancy for Cause dated January 27, 2011 and I grant an Order of Possession to the Landlord with an effective vacancy date of February 28, 2011.

Conclusion

I dismiss the Tenant's application to cancel the Notice to End Tenancy.

An Order of Possession effective February 28, 2011 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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*.

Residential Tenancy Branch