



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNC, MNDC, FF, O

Introduction

This application was scheduled to deal with the tenants' application to cancel a 1 Month Notice to End Tenancy for Cause; monetary compensation for damage or loss under the Act, regulations or tenancy agreement; recovery of the filing fee; and, other issues. Both parties appeared at the hearing and were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

At the commencement of the hearing I dismissed, with leave, the tenants' monetary claim in accordance with Rule 2.3 of the Rules of Procedure as the monetary claim for loss of quiet enjoyment is unrelated to the Notice to End Tenancy and because the landlords indicated they had little time to respond to the tenant's claims. The tenants are at liberty to make another application with respect to a monetary claim.

Issue(s) to be Decided

Should the Notice to End Tenancy be upheld or cancelled?

Background and Evidence

Pursuant to a written tenancy agreement the tenancy commenced September 1, 2010 and the tenants are required to pay rent of \$900.00 on the 1st day of every month. On January 31, 2011 the landlord posted a 1 Month Notice to End Tenancy for Cause (the Notice) on the tenants' door. The tenants disputed the Notice within the time limit required by the Act.

The Notice indicates two reasons for ending the tenancy as:

- Tenant or person permitted on the property by the tenant has put the landlord's property at significant risk; and
- Tenant's rental unit/site is part of an employment arrangement that has ended and the unit/site is needed for a new employee.

The landlords submitted the reasons for ending the tenancy are as follows:

1. The property is to be used for agricultural purposes and the rental unit is to be used for persons working on the farm. The male tenant was to train horses under a verbal agreement with the landlord but the tenant has stopped training horses and now drives a truck for a living.
2. The male tenant parked a large truck and trailer on the property on at least one occasion which is likely to damage the grass in the spring.
3. The male tenant video tapes the landlord's interactions with the tenant and the landlords feel threatened by the tenant's conduct.

The tenants provided the following responses:

1. The male tenant had contracts to train horses with people who boarded horses on the landlord's property and any agreement for training horses is separate from the tenancy agreement. The tenancy was not dependant on the tenant training horses. When horse training business is slow the tenant needs to drive a truck and trailer in order to pay the rent and other bills.
2. The tenant parks a truck on the property a couple of times per week and on two occasions had the trailer parked on the property. The landlord told the tenant the trailer is not allowed on the property and the tenant has not brought the trailer to the property since late December or early January.
3. The tenant suggested the landlords become familiar with the rights and obligations under the Residential Tenancy Act but did not threaten the landlord. The tenant acknowledged swearing at the male landlord once when the tenant felt the landlord was violating the tenant's rights under the Act.

Provided as evidence for this hearing was a copy of the Notice to End Tenancy, the tenancy agreement, the advertisement for the rental unit that the tenants responded to, and written submissions by both parties.

Analysis

Where a Notice to End Tenancy is disputed, the landlord has the burden to prove that the tenancy should end for the reasons indicated on the Notice. In this case there are two reasons indicated on the Notice and I have considered the submissions of both parties in determining whether the tenancy should end for the stated reasons

Have the tenants put the landlord's property at significant risk?

I accept that parking a tractor trailer on the property has the potential to cause damage to the property although the landlord did not persuade me that damage to the grass is significant damage. I accept that the tenant parked a tractor trailer on the property twice and the landlord told the tenant to cease bringing the trailer on the property. I accept that the tenant has ceased bringing the trailer onto the property. Given the tenant has ceased bringing the trailer onto the property and in the absence of evidence that there was a risk of significant damage to the property, I find this issue was resolved well before the landlords issued the Notice to End Tenancy. Accordingly, I do not find this issue to be sufficient grounds for ending this tenancy.

Is the rental unit part of an employment arrangement that has ended?

I have reviewed the written tenancy agreement and find no reference to occupation of the rental unit being tied to employment. I have also reviewed the advertisement for the rental unit. The advertisement indicates the rental unit is suitable for persons with horses but does not indicate working with horses is a requirement for tenancy.

The parties provided disputed verbal testimony as to whether the tenancy agreement was dependent upon an employment contract for horse training. I find the disputed verbal testimony to be insufficient to establish such a connection when the written tenancy agreement clearly provides no such connection to an employment arrangement. Therefore, I find the landlords have failed to establish that the tenancy was part of an employment arrangement.

In light of the above findings, I cancel the Notice to End Tenancy with the effect that this tenancy shall continue until such time it ends under the provisions of the Act. Both parties are obligated to comply with the terms of the tenancy agreement and the requirements of the Act during the remainder of the tenancy. Provided for the landlords with this decision is a copy of *A Guide for Landlords and Tenants in British Columbia* for their reference.

Since the tenants were successful in this application I award the tenants the cost of the filing fee. The tenants are authorized to deduct \$50.00 from their next month's rent.

Conclusion

The Notice to End Tenancy has been cancelled and the tenancy continues. The tenants are authorized to deduct \$50.00 from their next month's rent in order to recover the filing fee paid for this application.

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: February 22, 2011.

Residential Tenancy Branch