



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application to cancel a notice to end tenancy. The tenant, two advocates for the tenant and an agent for the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

On July 26, 2011 the landlord served the tenant with a notice to end tenancy for cause. The reason for ending the tenancy was that the tenant had seriously jeopardized the health or safety or lawful right of another occupant or the landlord. The effective date of the notice to end tenancy was August 31, 2011. The tenant applied to cancel the notice to end tenancy.

The landlord's evidence was as follows. On July 12, 2011 a fire inspector inspected the tenant's unit and deemed it a health and safety hazard. The fire inspection report stated that the rental unit "had a large collection of newspaper flyers piled on the floors so that you could not see the floor covering and what appeared to be bags of clothing. ... The sheer volume of this material is unacceptable and creates an unnecessary hazard for the rest of this building's occupants." The tenant had let her rental unit get into this condition in the past. On August 4, 2011 the landlord inspected the rental unit again and did not find much improvement. Plumbers attended the rental unit on August 26, 2011 and they were unable to get to the area they needed to fix because of the volume of materials still occupying the rental unit. The landlord verbally requested an order of possession.

The tenant's response was as follows. The tenant acknowledged that she had a lot of clutter on the floor on July 12, 2011, but since that date she has been cleaning up a lot.

The tenant has a paper route but was getting behind due to health issues, which led to the clutter. The tenant now has a support system in place to have the suite sufficiently cleaned, and it no longer poses a health hazard.

Analysis

I find that the notice to end tenancy is valid. The landlord has provided sufficient evidence that the excessive amount of the tenant's belongings did pose a health or safety hazard to other occupants of the building at the time that the landlord issued the notice to end tenancy. Furthermore, I accept the landlord's evidence that there has been insufficient improvement to the condition of the unit since the notice to end tenancy was issued. This was not the first time that the tenant allowed the condition of her unit to pose a threat to other occupants. The landlord cannot be expected to risk the safety of other occupants of the building on a repeated basis.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective two days from service. The tenant must be served with the 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: September 6, 2011.

Residential Tenancy Branch