



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC PSF RR FF

Introduction

This hearing was convened upon an application by the tenants to cancel a notice to end tenancy for cause, as well as for an order that the landlord provide services or facilities required by law and for a reduction in rent for repairs, services or facilities agreed upon but not provided. Two tenants and both landlords participated in the teleconference hearing.

This hearing did not deal with the portions of the tenants' applications regarding an order that the landlord provide services or facilities required by law or for a reduction in rent. I address those portions of the tenants' application in the conclusion to this decision.

In regard to the notice to end tenancy, I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to that issue is described in this decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy began on February 15, 2010. The rental unit is the upper portion of a house. There is a basement suite in the house that is rented out separately to other tenants.

On August 6, 2011, the landlord served the tenants with a one month notice to end tenancy for cause. The notice indicates that the reason for ending the tenancy is that the tenants significantly interfered with another occupant or the landlord.

The evidence of the landlord was as follows.

The tenants have repeatedly interfered with agents of the landlord and the occupants of the basement suite, as well as interfered with the landlords' ability to conduct their business as landlords.

The landlord had hired a company to spray the fruit trees on the rental property. In June 2010 the company informed the landlord that they would not spray on the rental property again, partly because when their employee attempted to carry out spraying, the tenants were verbally abusive and asked the employee several times to leave. The company is the only fruit-spraying company in the area.

The basement suite was vacated and the landlord were attempting to re-rent it between February and May 2011. On several occasions while the landlord was showing the suite to prospective new tenants, the upstairs tenants interfered. On one occasion, the tenant RL told a prospective tenant that if she intended to park her vehicle in the garage it would get covered in sawdust, because RL's husband used the garage as his workshop. That prospective tenant and other prospective tenants informed the landlord that they did not want to rent the basement suite because of the upstairs tenants. The landlord was able to rent the basement suite beginning May 28, 2011.

On June 15, 2011, a Telus representative attended at the rental property to hook up phone and internet for the basement suite. Before the installer had left his vehicle, the tenant NL approached the vehicle. NL appeared intoxicated and was threatening the installer with a drill. NL was obstructive, and the installer was upset by the incident. The basement tenant, K, who witnessed the interaction, was very upset and crying. K told the landlord that NL had also told K's mother that K should move out because it was an illegal suite.

On July 28, 2011 the basement suite tenants gave notice that they were vacating the rental unit as of August 31, 2011 because the upstairs tenants were rude and disrespectful toward the basement tenants and the landlord.

On August 2 or 3, 2011 the basement tenant K called the landlord and was very upset because K had some friends visiting and the upstairs tenant RL called one of K's friends "stupid" and gave her the finger.

The landlord denied that they issued the notice to end tenancy to avoid doing repairs to the rental unit and property.

The landlord orally requested an order of possession pursuant to the notice to end tenancy.

The tenants' response was as follows.

In regard to the fruit-spraying incident, the tenants stated that they only had interaction with a fruit spraying employee on the third time they attended. On that date it was very windy, and the tenant NL told the employee they could not spray in windy weather. NL acknowledged that he was overly aggressive to the employee, but then apologized.

The tenants denied repeatedly interfering with potential new basement suite tenants. The tenant RL acknowledged that she did tell one woman that she would get sawdust on her vehicle if she parked in the garage.

In regard to the incident with the Telus employee, NL denied being drunk. He was working in the yard, and likely did have a tool in his hand. NL acknowledged that he approached the Telus employee, and was overly aggressive with him but never threatened him. NL wanted the Telus employee to write down the fact that the basement suite was an illegal suite.

In regard to the basement tenants, the tenants provided a note signed by the basement tenants saying that the upstairs tenants did not harass them. The basement tenants told the upstairs tenants that they were moving out of the basement suite because of financial reasons. Further, the basement tenants complained about the landlord to the upstairs tenants several times. In regard to the incident on August 2 or 3, RL stated that three people came out of the basement suite and started smoking right outside the door, so RL asked them three times to move, and then one of the downstairs tenants' friends started yelling at RL. RL denied calling one of them stupid; rather, she was talking to someone on the phone and commented "this is stupid."

The tenants think they are being evicted because the landlord doesn't want to have a fire inspection and doesn't want to provide the tenants services required by law.

Analysis

In considering the evidence, I find that the tenants did interfere with agents of the landlord on at least two occasions, as well as interfere with the landlord's business regarding the basement suite. While each of these incidents in isolation may not have amounted to significant interference such that the tenancy ought to end, I find that the cumulated events amount to more than sufficient cause to end the tenancy. NL confirmed that he was "overly aggressive" with both the fruit-sprayer and the Telus employee, and RL inappropriately interfered on at least one occasion while the landlord

was showing the basement suite to a potential new tenant. The tenants exhibited a clear pattern of interfering behaviour, and I accept the evidence of the landlord as credible that the basement tenants moved out because of the interference of the upstairs tenants.

I find that the notice to end tenancy is valid. The landlord orally requested an order of possession, and I accordingly grant the order of possession.

Conclusion

I grant the landlord an order of possession effective September 30, 2011. The tenants must be served with the order of possession. Should the tenants 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.

The portion of the tenants' application regarding cancellation of the notice is dismissed. As the tenancy is ending, I also dismiss the tenants' application for an order that the landlord provide services or facilities required by law.

The monetary portion of the tenants' application is dismissed with leave to reapply.

The tenants are not entitled to recovery of the filing fee for the cost of their 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: September 16, 2011.

Residential Tenancy Branch