

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant seeking an order to set aside a One Month Notice to End Tenancy for Cause. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to have the notice set aside?

Background and Evidence

The tenancy began on or about June 28, 2010. Rent in the amount of \$457.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$100.00.

The landlord issued a One Month Notice to End Tenancy for Cause on August 17, 2011 for an incident that occurred three days earlier. The landlord testified that the tenant's ex-boyfriend had attended at the apartment complex and caused such a disturbance that the police were required to attend. The landlord provided oral testimony as well as written statements from another tenant that had witnessed this incident, amongst others showing a pattern of disturbances that involved the tenant and her ex-boyfriend. The landlord has serious concerns about this tenant as this building caters to seniors. On August 29th, 2011 the tenant was arrested by police and detained for two days. The landlord made an oral application during the hearing seeking an order of possession as she is concerned the tenant will not abide by the Notice.

The tenant testified to the following; her ex-boyfriend was the cause of all these problems, she had been abused and beaten by him that she promised to be good from now on, she had plenty of evidence to prove her case but stated that she has “been way too busy to submit any evidence”, and that the landlord and the other tenants are “not telling truth”

Analysis

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the tenant. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The landlord provided documentary and witness statements, the tenant provided none.

The landlord’s oral application for an order of possession pursuant to Section 55 of the Act is granted. 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. The Notice issued on August 17, 2011 remains in full effect and force.

Conclusion

The tenant’s application is dismissed without leave to reapply.

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 13, 2011.

Residential Tenancy Branch