

DECISION

Dispute Codes CNC, O

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy for cause.

Both parties attended the hearing by conference call and gave testimony.

Both parties state that evidence was submitted separately from the application and notice of hearing packages. No evidence has been recorded as submitted for this hearing. Both parties agree and wish to proceed with the hearing in the absence of any documentary evidence and wish to submit their direct testimony.

Issue(s) to be Decided

Is the Tenant entitled to an order to cancel the notice to end tenancy for cause?

Background and Evidence

The Tenant's Agent states that he served the Landlord's Agent, Vancouver Eviction Services with the notice of hearing application package with his evidence by email. The Landlord's agent, S.A. on behalf of Vancouver Eviction Services has acknowledge receipt of the package and states that they have responded to the notice and sent an evidence package to the Tenant and the Residential Tenancy Branch. The Tenant's Agent has acknowledged receiving the Landlord's evidence.

As there is no documentary evidence before the Residential Tenancy Branch, both parties have agreed that a 1 month notice to end tenancy for cause was served on the Tenant by posting it on the door of the rental unit on October 19, 2011. Both parties also agree as to the contents being displayed on the notice as having an effective date of November 30, 2011.

Both parties agreed to the following. On October 15, 2011, police attended the rental property of the Tenant in response to a suicide attempt. Verbal threats were made by the Tenant that led to the Vancouver Police Helicopter, Emergency Response Team and the Hazardous Materials Team to attend. The entire building consisting of 70 units was evacuated and residents were kept out of the property for approximately 2 hours. Police informed the Landlord that the Tenant was having some mental health issues

requiring their attendance. The Landlord states that 2 of the residents have vacated the rental property without notice as they are aware that the Tenant was the cause of the police emergency call and is continuing to reside there.

Both parties were given different reasons by police officials for this incident. The Landlord's Agent states that they were told by police that a bomb threat was phoned in. The Tenant's Agent states that he was informed that a threat of suicide by cyanide was made.

The Landlord states that the reasons listed on the 1 month notice to end tenancy for cause that was selected as being:

- the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord,
- As well as, seriously jeopardized the health or safety or lawful right of another occupant or the landlord,
- Put the landlord's property at significant risk,
- Tenant has engaged in illegal activity that has , or is likely to damage the landlord's property,
- Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord,
- Jeopardize a lawful right or interest of another occupant or the landlord.

The Tenant's Agent has confirmed that these selections were made on the notice dated October 19, 2011. The Tenant's Agent has state that he is disputing this notice on behalf of his brother under the directions of his brother's doctor. The Tenant's Agent states that the doctor recommends that his brother stay in "a familiar environment" as he is still in the grips of depression and has suicidal tendencies. Staying in his rental unit will afford him stability and continuity.

During the hearing, the Landlord's Agent, S.M. made a request for an order of possession in the event that the Tenant's Agent was unsuccessful in cancelling the notice to end tenancy.

Analysis

The Landlord has acknowledged receiving the Tenant's notice of hearing and evidence package by email and has responded by sending an evidence package to the Tenant. The Tenant's agent has acknowledged receiving the Landlord's evidence.

Based upon the direct testimony of the Landlord's Agent, S.M. (Vancouver Eviction Services) and the Landlord's Agent, L.A. (Royal Providence Management), I find that the Landlord has established his claim in his reasons given on the notice dated October 19, 2011. The Tenant's Agent has confirmed the direct testimony provided and only differs from the "bomb threat" as opposed to "a suicide by cyanide". I find either of these reasons to be equally threatening in this situation and would cause significant interference of another occupant or the Landlord. I also find that property was put at significant risk and that this jeopardized the health of safety concerns of other occupants and the Landlord. The Tenant's application is dismissed without leave to reapply. The Landlord's notice dated October 19, 2011 is upheld. The Landlord is granted an order of possession that is effective on November 30, 2011 which is displayed as the effective date given on the notice.

Conclusion

The Tenant's application is dismissed.
The Landlord is granted an order of possession.

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: November 17, 2011.

Residential Tenancy Branch