



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDC OLC ERP RP LAT RR OPC FF

Introduction

This hearing dealt with applications by the tenant and the landlord.

The tenant applied to cancel a notice to end tenancy for cause, as well as for monetary compensation, a reduction in rent, repairs and emergency repairs, an order that the landlord comply with the Act and an order authorizing the tenant to change the locks to the rental unit. The landlord applied for an order of possession pursuant to the notice to end tenancy for cause.

I determined that the issue of the notice to end tenancy took precedence, and only heard evidence on that issue. I will address the remainder of the tenant's application in the conclusion of this decision.

The tenant stated that she had only received the landlord's evidence on October 29, 2011. The tenant received the landlord's evidence at least 5 days before the hearing, and therefore the landlord's evidence was not late. I admitted the landlord's documentary evidence.

The tenant submitted evidence that I received on the date of the hearing. The tenant did not serve a copy of that evidence on the landlord. I did not admit or consider the tenant's documentary evidence.

During the hearing, the tenant stated that she had two witnesses who could corroborate her evidence of an incident they witnessed. In regard to the incident in question, the landlord was not present; the landlord submitted a written statement from their witness but their witness did not appear to give testimony in the hearing. I explained to the tenant that in regard to that incident, I would weigh the landlord's documentary evidence against the tenant's testimony, and I was satisfied that it would not be necessary to hear corroborating evidence from the tenant's witnesses.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy agreement indicates that the tenancy began on September 3, 2011. The rental unit is a three-bedroom house on an acreage property that is shared with a two-bedroom house. On October 1, 2011 the landlord rented the two-bedroom house to other tenants.

On October 11, 2011 the landlord served the tenant with a notice to end tenancy for cause. The notice cites two reasons for ending the tenancy: (1) the tenant, or another person permitted on the property by the tenant, has significantly interfered with or unreasonably disturbed another occupant or the landlord; and (2) the tenant, or another person permitted on the property by the tenant, has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Landlord's Evidence – Cause

After the tenant began moving into the rental unit, she told the landlord that she was bringing a very large storage bin onto the property. On September 10, 2011 the landlord wrote the tenant a letter stating that the tenant may not bring the bin onto the property without the landlord's written permission. Without any permission from the landlord, the tenant then brought the bin onto the property. The tenant and the landlord ended up having "quite a shouting match" about the bin, and the landlord reluctantly agreed to allow the tenant to keep the bin on the property temporarily.

The landlord purchased the rental property on August 11, 2011. In order to obtain fire insurance for the rental unit, the landlord needed to remove some carpet and do tiling work by September 11, 2011. The landlord informed the tenant that this work needed to be done and gave the tenant written notice, but on September 10, 2011 the tenant refused to allow the landlord entry into the unit to do the work. Consequently, the landlord was unable to complete the tile work until September 12, 2011. The landlord believed that the tenant refused entry as retaliation for the landlord's refusal to allow the tenant's bin on the property.

The landlord applied to BC Hydro to have separate meters installed for the two houses on the property. In order to do the necessary work, the contractor requires access to the hydro box in the garage, and six feet of wall space and room to move. The tenant has overcrowded the garage with her belongings, including the area that the contractor requires to be cleared. The landlord has repeatedly asked the tenant to give the contractor the necessary access to the garage but the tenant refuses to cooperate.

During September 2011, the tenant interfered while the landlord showed the two-bedroom house to prospective new tenants.

The landlord found new tenants, RS and AG, to begin renting the two-bedroom house starting October 1, 2011. On September 29, 2011 the tenant agreed with the landlord that she would share the mailbox for the property with the new tenants. On October 5, 2011 the tenant called the landlord and said that RS had come to the tenants' door to demand a key to the mailbox, and said that RS was "abusive." The landlord then received a call from RS, who said that he had asked the tenant for a copy of the mailbox key, and the tenant became confrontational and angry, screamed at RS and used insulting language. The landlord submitted a written statement from RS about this incident.

The following day, October 6, 2011, the tenant aggressively confronted AG at the mailbox and accused AG and RS of being "attacking" her. The landlord witnessed part of this incident, when the tenant "spoke dreadfully to AG." On October 7, 2011, AG and RS wrote to the landlord and gave notice to end their tenancy, because the tenant made them extremely uncomfortable and they feared for their safety.

The landlord testified that the tenant gets out of control, and has threatened the landlord and her agent. The tenant has had incidents on the property with irate boyfriends. The tenant's boyfriend threatened the landlord's agent. The tenant has ranted, raved, yelled and screamed at the landlord. The landlord cannot conduct the business of managing the property because of the tenant's repeated interference.

Tenant's Response – Cause

The tenant stated several times in the course of the hearing that she is quiet and easygoing and non-confrontational, and she has had no altercations with RS and AG. The landlord has been harassing the tenant and created problems between the tenant and RS and AG. The tenant denied ever yelling at the landlord or the landlord's agent.

The tenant stated that she had the landlord's verbal permission at the outset of the tenancy to bring her storage bin onto the property. The tenant acknowledged that she and the landlord "had a big fallout" about the bin, but then the landlord agreed to let the tenant have the bin on the property.

The tenant denied ever receiving any written notices from the landlord. In regard to the tile work, the landlord's agent was supposed to do the work but was not doing it, so the tenant's boyfriend asked the landlord if he could do the work instead. The tenant's boyfriend "got quite upset" at the landlord's agent over the work he was not doing, and "there was a bit of arguing going back and forth, but then they settled it between them."

The landlord started causing issues about the hydro, and wanted the tenant to put the hydro in her own name. The tenant knew that was not her responsibility, that she has rights, she is renting the property.

In September 2011 the landlord was showing the two-bedroom house to potential new tenants who were "crack addicts." The tenant kept looking at the landlord and trying to signal "don't rent to them."

In regard to the mailbox issue, the tenant was at first willing to share the mailbox with RS and AG, even though she knows that the mail box is supposed to be for the tenant of the main house. RS and AG got a chip on their shoulder about sharing the mailbox.

On October 5, 2011 RS came to the tenant's deck and wanted the tenant to give RS the phone number for the landlord's agent. The tenant told RS that the landlord's agent was not the person to contact. RS "started freaking on [the tenant]" about the mail, and the tenant told RS she was no longer willing to share the mailbox with him. RS started pounding on the tenant's deck, and the tenant told RS "you're totally whacked out."

The tenant acknowledged that she spoke to AG on October 6, 2011 at the mailbox, and told AG that RS "doesn't say very nice things about [AG]."

The tenant stated that after the landlord served the tenant with the notice to end tenancy, the landlord then cut off the tenant's access to the mailbox. I informed the tenant that I needed to focus on the events before the notice was served. The tenant then stated that the landlord cut off the tenant's mailbox access before the notice was served.

Throughout the hearing, the tenant's demeanour was aggressive and erratic. Her testimony was unclear and contradictory, and she would not respond directly to specific questions I asked her.

Analysis

I find that the notice to end tenancy is valid. The landlord's evidence was clear and consistent. The tenant's evidence was unclear, contradictory and lacked credibility.

The tenant repeatedly stated that she was not confrontational, and that she did not yell at the landlord or the landlord's agent, but in other parts of her testimony she acknowledged that she did get into an argument with the landlord. The tenant interfered with the landlord and the landlord's agents by not allowing agents of the landlord to carry out necessary tiling and electrical work. The tenant acknowledged that her boyfriend, a person she permitted on the rental property, got into an argument with the landlord's agent over work to be done by the landlord's agent. The tenant disturbed the quiet enjoyment of the other occupants, RS and AG, within only a few days of the time RS and AG moved onto the property. The tenant interfered with the landlord's business by telling RS that the landlord's agent was not the landlord's agent and when the landlord was attempting to show the two-bedroom unit to prospective tenants.

While one of these incidents in isolation may not have amounted to cause to end the tenancy, I find that the cumulated events do provide sufficient cause. As the notice to end tenancy is valid, the landlord is entitled to an order of possession.

As the landlord was successful in her application, she is entitled to recovery of the \$50 filing fee for the cost of her application.

Conclusion

I grant the landlord an order of possession effective November 30, 2011. 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 tenant's application to cancel the notice to end tenancy is dismissed. As the tenancy is ending, I also dismiss without leave to reapply the portions of the tenant's application regarding repairs, emergency repairs, an order that the landlord comply with the Act and an order authorizing the tenant to change the locks to the rental unit.

The monetary portion of the tenant's application is dismissed with 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: November 8, 2011.

Residential Tenancy Branch