



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, CNR, RP, PSF, RR

Introduction

This hearing dealt with an application by the tenant for more time to make an application, to cancel a notice to end tenancy for cause, to cancel a notice to end tenancy for unpaid rent, to order the landlord to make repairs to the unit, to order the landlord to provide services, to reduce rent for repairs and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began approximately 10 years ago.

On January 31, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- put the landlord's property at significant risk.
- caused extraordinary damage to the unit/site or property/park.

On February 1, 2012 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant has continually created a problem in the rental property with their accumulation of debris and cast off items. The landlord stated that a fire was started in the rental unit last year when the tenant was burning urine soaked newspapers and caught the carpet on fire. The City of Vancouver Fire Department then conducted an inspection and determined the conditions to be a fire hazard. The landlord stated that they have attempted to work with the tenant in getting the property to an acceptable condition but the tenant has not complied and adequately cleaned up the property. The landlord stated that the City of Vancouver Hoarding Task Force had also

been involved with inspections and attempting to help get the tenant to get the property into an acceptable condition.

The landlord stated that the tenant recently had 2 adult dogs removed from the property and destroyed by City of Vancouver Animal Control as the dogs attacked a neighbour. The landlord stated that the tenant was advised that she could not bring any other dogs on to the property but that the tenant recently had two puppies in the home.

The tenant testified that she had been cleaning the rental unit and that she could now move around in the living room. The tenant stated that she still did not have a working stove or fridge and the landlord responded by stating that they could not replace the stove due to the clutter and debris piled on top of it and in it. The landlord could not confirm if the fridge was working as the tenant did not want the landlord to open it. The landlord stated that if she could verify if either appliance was not working that she had no issue replacing them.

It was agreed by the parties in the February 28, 2012 hearing that the tenant would allow the landlord to complete an inspection at the rental property to verify if the tenant had been making an effort to remove some of the debris from the property.

The landlord stated that during the March 1, 2012 inspection the condition of the rental unit was found to be much improved and the landlord does not believe that the current living conditions constitute a fire hazard. The landlord stated that she could not access to the bedroom as the tenant had the door locked. The landlord did note that one could walk freely in the rooms and that many of the table and counter surfaces could be seen as much of the debris had been removed.

The City of Vancouver Inspector and landlord both confirmed that much of the damage to the rental unit was due to the tenant's dogs freely defecating and urinating in the rental unit. The City of Vancouver Inspector stated that a condition of the tenant not bringing any new animals into the rental unit would be essential.

The tenant's advocate proposed an end of tenancy date of May 31, 2012 with an order of possession to the landlord for that same date. This proposal is so that the advocate's office may assist the tenant with finding new and possibly supportive housing.

The landlord in this hearing agreed to this proposal with the following conditions:

- The tenant's advocate will prepare a Mutual Agreement to End Tenancy for May 31, 2012.
- The landlord will be issued an Order of Possession dated May 31, 2012.
- The tenant will continue to pay the monthly rent to the landlord.
- The City of Vancouver Inspector will conduct inspections with the landlord to check on the continued clean-up of the debris in the rental unit the weeks of:
 - March 26, 2012

- April 16, 2012
- May 7, 2012
- The landlord will post the inspection notices when the inspection dates have been confirmed.
- The tenant will not bring any animals of any kind in to the rental unit.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for cause and a notice to end tenancy for unpaid rent. However as the landlord took receipt of rent monies from the tenants after issuance of the notices and did not provide the tenants with a receipt stating *'for use and occupancy only, does not reinstate tenancy'*, (Residential Tenancy Fact Sheet RTB-124, Re-Instatement of Tenancies) the landlord's 10 day notice to end tenancy for non-payment of rent is set aside.

When a landlord serves a tenant with a 1 month notice to end tenancy for cause the *Act* allows a landlord to accept rent for the last month of the tenancy without providing the tenant with a receipt stating *'for use and occupancy only, does not reinstate tenancy'*, therefore the landlord's 1 month notice to end tenancy for cause is in full force and effect.

The landlord has provided documentary and photographic evidence of the issues related to the accumulation of debris in the rental unit. The landlord has also submitted copies of letters to the tenant that date back to March 2011 where the landlord is advising the tenant that the excessive debris must be removed from the property. Testimony from the City of Vancouver Inspector verified the sub-standard living conditions that had been present in the rental unit and the damage to the rental unit. Based on the evidence and testimony of the parties I find that the landlord has met the burden of proving that they are entitled to an order of possession for cause.

The tenant in this application requested more time to make an application however the tenant has made the application to dispute both notice within the timelines outlined by the *Act*. Therefore this portion of the tenant's application is hereby dismissed.

In regards to the tenant's request for the landlord's to make repairs, the tenant needs to provide the landlord access to the stove and fridge to verify if either are properly working.

Pursuant to Section 63 of the *Residential Tenancy Act*, the dispute resolution officer may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement regarding the end of tenancy.

Specifically, both parties agreed to the following:

- The City of Vancouver Inspector will conduct inspections with the landlord to check on the continued clean-up of the debris in the rental unit the weeks of:
 - March 26, 2012
 - April 16, 2012
 - May 7, 2012
- The landlord will post the inspection notices when the dates have been confirmed.
- The tenant will not bring any animals of any kind in to the rental unit.
- The tenant's advocate will prepare a Mutual Agreement to End Tenancy for May 31, 2012.
- The landlord will be issued an Order of Possession dated May 31, 2012.
- The tenant will continue to pay the monthly rent to the landlord.

By mutual agreement the tenancy will end on May 31, 2012 at 1:00 PM.

Conclusion

By mutual agreement the tenancy will end on **May 31, 2012 at 1:00 PM.**

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, May 31, 2012.** This Order must be served on the tenant(s) and 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: March 5, 2012

Residential Tenancy Branch