



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Landlord applied on March 27, 2012 for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on April 23, 2012 for:

1. An Order cancelling a Notice to End Tenancy – Section 46; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began approximately four years ago. On March 14, 2012 the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause (the “Notice”).

There is not dispute that the Notice lists the following causes:

1. The Tenant or a person permitted on the property by the tenant has
 - a. Significantly interfered with or unreasonably disturbed another occupant or the landlord

- b. Seriously jeopardized the health, safety or lawful right of another occupant or the landlord.

The Landlord states that a third cause noted on the Notice is not correct and withdraws this item of cause.

The Landlord states that since December 2011, other tenants have complained about loud noises, swearing, fits, tantrums and rage coming from the Tenant while in her unit, in the hallway and on the back porch. The Tenant lives in a rooming house with approximately 12 tenants. The Landlord supplied letters from three tenants outlining their complaints and documenting the occurrences. The Landlord also sent the Tenant warning letters in relation to the outbursts and noise. The Landlord states that since the Tenant was admitted to hospital and then released the noise has stopped however the Landlord is concerned that there is no guarantee that the incidents will not occur again. The Landlord states that the type of housing provided by the rooming house is not suitable for the Tenant and that the Tenant does not get the kind of support needed. The Landlord states that there has been a lot of emotion over the Tenants behaviour and that it has been very difficult but that other tenants have warned the Landlord that they will either move out or seek compensation for their loss of quiet enjoyment due to the behaviour and actions of the Tenant.

The Tenant does not deny swearing but states that the noise level is exaggerated. The Tenant states she stopped taking her medications during the period complained about and that since coming back from the hospital things have been different as she is now back on medication. The Tenant's support person states that the Tenant is regularly checked for her medication use and has a health team that has been put in place to make regular visits. The Tenant states that this is the first time in seven years that her medical condition has been a problem for her and argues that she should not be evicted over health issues.

Analysis

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Given the evidence of other tenants complaints, noting the evidence of the repetition, level and near constant acts of the Tenant, and considering the consequences of these acts for the other tenants' quiet enjoyment, I find that the Landlord has substantiated on a balance of probabilities that the Tenant's actions have unreasonably disturbed the other tenants and the Landlord. Accordingly, I find that the Notice is valid and that Landlord is entitled to an Order of Possession. As the Landlord has been successful with its application, I find that the Landlord is entitled to recovery of the \$50.00 filing fee and I order the Landlord to retain this amount from the security deposit. The Tenant's application is dismissed.

Conclusion

The Tenant's application is dismissed. **I grant** an Order of Possession to the Landlord. The Tenant must be served with this **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.

I order that the Landlord retain \$50.00 from the security deposit.

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: May 23, 2012.

Residential Tenancy Branch