



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, MNDC, AS

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for a monetary order for compensation and for an order directing the landlord to allow her to sublet the rental unit.

Both parties attended the hearing and had opportunity to be heard. At the hearing the landlord made an oral request for an order of possession in the event that the tenant's application was not successful.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to a monetary order for compensation?

Background and Evidence

The tenancy began on June 01, 2006. The monthly rent is \$978.00 due on the first of the month. The rental unit consists of a one bedroom apartment which measures approximately 500 square feet. The building houses a total of 11 apartments.

A clause in the rental agreement states that the tenant is not permitted to have additional occupants without the written approval of the landlord.

The landlord stated that she received complaints from the other occupants of the building regarding the constant turnover of occupants residing in the rental unit. The landlord was notified that the tenant advertised on line for temporary roommates who would pay \$150.00 per week. The landlord filed copies of several advertisements paying guests, placed by the tenant on a popular website. The landlord stated that the other residents told the landlord that they feared for their safety when they encountered strangers in the common areas of the building.

Sometime prior to January 2012, the tenant was robbed by a roommate and called the police to investigate the matter. On January 19, 2012, the landlord served the tenant a warning letter, reminding her of the term of her tenancy agreement regarding additional occupants in the rental unit.

The tenant stated that at the time she received the warning letter, she had a home stay guest who she did not want to evict. This guest left on February 15, 2012. Despite the warning letter, the tenant took on another home paying guest on March 01, 2012 and continued to advertise for paying guests.

On May 10, 2012, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. The notice to end tenancy was served for the following reasons:

1. Tenant or a person permitted on the property by the tenant:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - put the landlord's property at significant risk
2. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so
3. Tenant has sublet the rental unit without landlord's written consent

The tenant is applying for written permission from the landlord to allow her to keep temporary paying guests. The landlord argued that the unit is only 500 square feet and is not designed to house two bedrooms. In addition, the landlord stated that the tenant is compromising the safety and security of both herself and the other residents by renting to strangers on a temporary basis. The landlord also referred to the term in the tenancy agreement regarding additional occupants and pointed out that the tenancy agreement names the tenant as the only occupant of the rental unit.

The tenant is also applying for compensation for events related to a bed bug incident that occurred in December 2009. The compensation is for laundry costs, bank charges and stress for a total of \$500.00.

Analysis

In order to support the notice to end tenancy, the landlord must prove that the reason for the notice to end tenancy applies. Based on the testimony of both parties, I find that the tenant was warned about temporary sublets but did not pay heed to the warning letter. She continued the practice of advertising on line and renting to short term paying guests.

Pursuant to section 34(1) of the *Residential Tenancy Act*, a tenant must not sublet a rental unit unless the landlord consents in writing. By subletting without the landlord's permission, I find that the tenant breached a term of the tenancy agreement. I further find that the tenant did not correct the situation within a reasonable time after the landlord gave her written notice to so.

Therefore, I find that the landlord has proven the reason for the notice to end the tenancy for cause and accordingly, I uphold the notice to end tenancy.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. 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.

Since the tenancy is ending, the tenant's application to direct the landlord to allow her to sublet is moot and accordingly dismissed.

The tenant's claim for compensation for a matter related to a bed bug incident that took place in December 2009 is also dismissed for the following reason. If the issue was significant for the tenant, she had the option of making an application for dispute resolution at the time of the incident. The tenant did not do so and chose to include it along with her application to dispute the notice to end tenancy, more than two years after the incident.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective on or before 1:00 p.m. on June 30, 2012. The tenant's application is dismissed in its entirety.

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: June 19, 2012.

Residential Tenancy Branch