

DECISION

Dispute Codes CNC

Introduction

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

Both parties attended the hearing by conference call and gave testimony. As both parties have acknowledged receiving the notice of hearing and evidence package submitted by the other party, I am satisfied that each has been properly served as deemed under the Act.

The Landlord has requested during the hearing that an order of possession be granted so that he can make repairs for the unit.

Issue(s) to be Decided

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

Background and Evidence

Both parties agreed that the Tenant was served with a 1 month notice to end tenancy issued for cause dated May 28, 2012 with a stated effective date of June 30, 2012 on May 29, 2012. The Landlord has selected two reasons for cause. 1) Tenant has caused extraordinary damage to the unit. 2) Tenant has not done required repairs of damage to the unit. No condition inspection reports have been made for this tenancy.

The Landlord states that the rental unit has suffered two fires over the last 10 year period. Both parties agreed that the last fire occurred approximately 4-5 years ago as a result of a grease fire. The Landlord claims that numerous verbal request for the Tenant to make repairs over the last 4-5 years have been ignored by the Tenant. The Landlord states that a written notice was given to the Tenant in July of 2011 to make the repairs by August 31, 2011 or an eviction was possible. The Tenant has confirmed receiving the verbal notices to make repairs over the last few years, but disputes that any written notice was ever given. The Landlord has submitted a copy of the written notice disputed by the Tenant. The Landlord relies on photographs submitted showing

the condition of the rental that show a missing cabinet door, smoke damage to various walls and the ceiling.

Analysis

As both parties have confirmed that the Tenant was served with the 1 month notice to end tenancy dated May 28, 2012 on May 29, 2012, I am find that the Tenant was properly served with the notice to end tenancy as deemed under the Act.

Although there is damage to the rental unit, I do not find that there does exist extraordinary damage as shown by the photographs submitted by the Landlord. On this reason I find that the Landlord has failed to establish his claim. On the second reason for cause, I find that the Tenant has acknowledged in his direct testimony that no repairs have been made even after receiving numerous verbal requests to do so. I find based upon the direct testimony of both parties and the documentary evidence submitted that the Landlord has established his claim for the second reason of not making required repairs of damage to the unit. The Tenant's application to cancel the notice to end tenancy is dismissed.

The Landlord is entitled to an order of possession for June 30, 2012 as shown on the effective date of the notice to end tenancy dated May 28, 2012. 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.

Conclusion

The Tenant's application is dismissed without leave to reapply.
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: June 22, 2012.

Residential Tenancy Branch