



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, CNL, FF

Introduction.

This hearing dealt with applications by the landlord and tenants, pursuant to the *Residential Tenancy Act*.

The landlord applied for an order of possession pursuant to a notice to end tenancy for landlord's use of property and for a monetary order for the filing fees. The tenants applied to cancel the notice to end tenancy and for the recovery of their filing fee.

The landlord served all the tenants with a notice of hearing and a copy of his application, by registered mail and filed proof of having done so. Despite having made application to dispute the notice to end tenancy and having received the notice of hearing package from the landlord, two of the six tenants did not attend the hearing. Three of the six tenants entered into an agreement with the landlord prior to the hearing and therefore did not attend the hearing. The hearing was attended by tenant MB - the occupant of unit 224.

The landlord filed signed copies of a termination agreement that was entered into by the landlord and the tenants of units 204, 205 and 217. Tenants in units 204 and 205 agreed to move out on August 31, 2012 while the tenant in unit 217 agreed to move out on July 31, 2012. Orders of possession will be granted to the landlord effective these dates. The landlord agreed to withdraw his application for the recovery of the filing fee, for these files.

The tenants in units 325 and 223 did not attend the hearing. Accordingly, their applications to cancel the notice to end tenancy and for the recovery of the filing fee are dismissed. Orders of possession will be granted to the landlord with an effective date of August 31, 2012.

The landlord and tenant MB gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me. I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

At the outset of the hearing each of the parties advised that they had submitted evidence to each other. The tenant stated that she did not receive photographs that the landlord filed as late evidence. Therefore the photographs were not considered in the making of this decision. The tenant also stated that she did not receive a copy of the permit to carry out electrical updates.

Issues to be Decided

Has the Landlord validly issued the notice to end tenancy and does the landlord have the necessary permits required by law to repair the unit? Do the repairs require the rental unit to be vacant?

Background and Evidence

The landlord issued the tenant a two month notice to end tenancy, on June 15, 2012 to be effective on August 31, 2012.

The reason the landlord gave the notice to the tenant is described as, the landlord has all the necessary permits and approvals required by law to demolish or repair the rental unit in a manner that requires the unit to be vacant.

The rental units are located in a building which is approximately 44 years old and was purchased by the current owner in September 2011. The building houses a total of 78 units, 33 of which have already undergone renovations or are in the process of.

The landlord filed copies of three permits issued by the local municipality which allow the landlord to carry out the following repairs/updates.

1. A plumbing permit allows the landlord to change water lines in a total of 13 units in the building including the unit occupied by MB.
2. A building permit allows the landlord to carry out "*interior alterations to provide hazardous material remediation, drywall removal and replacement to facilitate plumbing repair/pipe replacement for tub water supply, piping to all suites in the existing multiple dwelling building. Scope is limited to suite bathrooms and kitchen wet wall shut off areas only.*"
3. An electrical permit allows the landlord to re fuse panels to breaker panels in all units, install additional lights in parkade and install new plugs, switches and lights in some suites.

The tenant has alleged the landlord is issuing the notice in bad faith and is carrying out the renovations for the sole purpose of financial gain by intending to raise the monthly rent, after the renovations. The tenant referred to the proposed renovations as “renovictions”. The tenant also argued that this work could be carried out without the tenant having to vacate the unit or if required she would be willing to move to temporary alternative accommodation, for the duration of the work.

The landlord’s witness is an employee of the landlord who oversees the maintenance of the building. He testified that the building was poorly maintained over the years prior to the new owner taking over and some suites had original carpet from 1968. He stated that the renovations involve demolition and construction of the rental unit. He described the proposed work as gutting the entire unit which includes removal of the carpets, doors, cabinets and all fixtures. The walls will be opened to install new pipes and electrical wiring. The ceiling will be raised and new fans, toilets, subfloors, carpet etc. will be installed. Finishing will include the installation of new tile, cabinets, paint, doors, fixtures etc.

The witness stated that based on the time taken to complete the renovation of the other suites, he estimates that each unit will take approximately eight weeks for renovations. He further added that the time of completion will also depend on what is found inside the walls and the availability of the various trades. The witness stated that it was necessary for the unit to be vacant while the work of this magnitude was being carried out and also added that there was work to be done which did not require municipal permits and therefore was in addition to the work described in the permits.

Analysis

Section 49 (6) states that the landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, to renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

Even if I accept that the tenant was not served a copy of the electrical permit, I find that the other permits are sufficient to establish that the landlord intends to carry out extensive renovations that require the unit to be vacant, for the duration of the work.

I am satisfied that the landlord had all the required permits in place at the time the notice to end tenancy was issued and I find that the landlord has grounds to end this tenancy. Accordingly I dismiss the tenants’ claim for an order setting aside the notice.

I find that the landlord is entitled to an order of possession and pursuant to section 55(2); I am issuing a formal order of possession effective on or before 1:00p.m. on August 31, 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

I grant the landlord an order of possession effective on or before 1:00p.m. on August 31, 2012 for tenant MB. The landlord is entitled to retain \$50.00 of the security deposit towards the recovery of the filing fee. MB's application is dismissed and she must bear the cost of filing her application.

I grant the landlord an order of possession for the occupant of unit 217 effective on or before 1:00 pm on July 31, 2012. Both parties will bear the cost of filing their own applications.

I grant the landlord an order of possession for the occupants of units 204 and 205, effective on or before 1:00 pm on August 31, 2012. The landlord will bear the cost of filing his application.

I grant the landlord an order of possession for the occupants of units 325 and 223, effective on or before 1:00 pm on August 31, 2012. The landlord is entitled to retain \$50.00 of the security deposits paid by each tenant, towards the recovery of the filing fee. Both tenants must bear the cost of filing their own applications.

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: July 31, 2012.

Residential Tenancy Branch