



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

CNC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a Notice to End Tenancy for Cause dated June 19, 2012.

The tenant appeared, along with an advocate and the landlord also attended. Each gave affirmed testimony in turn.

Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is whether the landlord's issuance of the One-Month Notice to End Tenancy for Cause was warranted or whether it should be cancelled as requested by the tenant.

The burden of proof is on the landlord/respondent to justify the reason for the Notice to end Tenancy under the Act.

Background and Evidence

The tenancy began on August 1, 2002. The current rent is \$340.00 and the landlord is holding a security deposit of \$250.00 on behalf of the tenant.

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated June 19, 2012, copies of letters from the landlord to the tenant dated September 16, 2002, October 1, 2002, February 26, 2007, May 4, 2011 and April 11, 2012, a copy of an invoice for replacing the deadbolt on the tenant's suite, copies of internal reports, a copy of the tenancy agreement and a copy of a previous decision dated June 8, 2012 awarding the landlord monetary compensation from the tenant for the cost of restoring the locks.

The landlord testified that the tenant had repeatedly changed the locks on his unit despite numerous written warnings. The landlord testified that there have been 4 documented incidents since 2002 and two additional incidents in which the tenant was successfully convinced to restore the changed locks. The landlord testified that the landlord made an application for dispute resolution and obtained a monetary order

ordering the tenant to pay the costs of restoring the locks in March 2012. The landlord testified that the tenant has refused to pay. The landlord testified that, since the earlier dispute resolution decision, they discovered that the tenant has, once again, changed the locks. The landlord testified that this problem has been a persistent expenditure and inconvenience to the landlord and the tenant remains unrepentant. The landlord stated that a One Month Notice to End Tenancy for Cause was served on the tenant by posting it on the door on June 19, 2012 and by sending it by registered mail on June 23, 2012 and they are seeking an Order of Possession pursuant to the Notice.

The tenant acknowledged that he had changed the locks, but stated that this only occurred twice and that he did so without understanding that this was in violation of the Residential Tenancy Act. The tenant stated that he was never sent all of the communications that were submitted into evidence by the landlord. The tenant testified that he also gave the landlord copies of keys to the new locks.

The tenant testified that he felt compelled to change the locks on his rental unit because of illicit entries to his suite by others and that these intrusions had been reported to the police. The tenant acknowledged that he was served with a monetary order from the previous dispute resolution hearing ordering him to pay the cost of restoring the landlord's locks, but stated that he would not be paying the landlord despite this legal order to do so, because he is on a fixed income without extra funds and also because he felt that the costs reported by the landlord were excessive.

The tenant testified that the One-Month Notice should be cancelled as it is not warranted.

Analysis – Notice to End Tenancy

It is necessary to establish whether or not the Tenant violated the Act by engaging in conduct that significantly interfered with or unreasonably disturbed another occupant or the landlord, put the landlord's property at significant risk, and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Section 31(2) of the Act states that a tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change and section 31(3) of the Act states that a tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to this, or a dispute resolution officer has issued an order permitting the change.

In this instance I find that the tenant had persisted in illegally changing the locks, despite repeated warnings from the landlord, including the landlord's action in obtaining a decision and a legal order with respect to the tenant's noncompliance with the Act.

I find that the tenant's position, that being his assertion that he was not aware that changing the locks was a violation of sections 31(2) and 31 (3), even if accepted as fact, does not excuse the conduct.

I also do not accept the tenant's claim that he was justified in changing locks. I find that, if the tenant felt that changing the locks was warranted by the circumstances, the tenant had a right under the Act to make his own application for dispute resolution seeking an order permitting him to change the locks. This would have to be done prior to removing the landlord's lock and replacing it with his own.

In the previous decision on the landlord's application, the dispute resolution officer found that:

"The Tenant has a history of changing the locks without permission and was cautioned to rectify the lock change by re-installing it."

I find that, despite the June 8, 2012 decision and the legal order against the tenant ordering him to pay the cost of restoring the landlord's lock, there was yet another report that the tenant had, once again, engaged in the prohibited conduct.

I find that, there were multiple warnings and a clear explanation was given in writing to caution the tenant, that if he did not cease and desist, his tenancy would be terminated. However, it is clear that the tenant still persisted in tampering with the locks.

Given the above, I find that the Notice is valid and that the tenant's Application requesting that the Notice must therefore be dismissed.

During the hearing the Landlord made a request for an order of possession. Under the provisions of section 55(1)(a), 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.

Conclusion

Based on the evidence and the testimony discussed above, I hereby dismiss the tenant's application without leave. I hereby grant the landlord an Order of Possession effective Sunday, September 30, 2012 at 1:00 p.m.

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.

This decision is final and binding and 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 16, 2012.

Residential Tenancy Branch