



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. 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?

Background and Evidence

The rental unit consists is an apartment located in a building that houses other rental units. On August 01, 2012, the landlord served the tenant with a notice to end tenancy for cause. The reason for the notice was that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord

The tenancy started in May 2011 and there were no problems up until July 2012. The tenant had just returned home from the hospital after a stay of approximately two months. On July 03, the tenant complained of fleas in the apartment. The landlord stated that he responded immediately and visited the apartment three times before he had it inspected professionally on July 30, 2012.

The tenant stated that the landlord didn't check it out immediately. She stated that he came by three weeks later and then changed her testimony to say that he came by in the middle of August which would be six weeks later. The tenant was unsure of dates and her testimony regarding the landlord's visit did not match the date of the exterminator's report.

During his visits, the landlord stated that the tenant did not have the "*bag of fleas*" that she indicated were in the unit. The landlord collected tiny particles from the counter top and floor that the tenant said were larvae of fleas. The landlord examined these particles with a magnifying glass and found them to be dust and bread crumbs.

The landlord hired an exterminator and the tenant filed the report of the visit. The exterminator examined samples gathered by the tenant and stated that *"Upon viewing under a microscope I was unable to determine what the samples were with absolute certainty but fleas were not among items found."*

The landlord stated that despite the report, the tenant continued to believe that fleas infested the unit and proceeded to clean incessantly at all hours, using several chemical cleaning products.

The landlord filed letters of complaint written by other occupants of the building. The letters describe the erratic behavior of the tenant, including accusing them of theft and displaying abusive behavior towards them. The occupants also complained of noise disturbances that the tenant caused by cleaning at all hours of the night and early morning. The tenant argued that she could not predict at what time the flea and bug activity would commence and therefore she cleaned at whatever time it did. The landlord stated the occupants who complained are seniors and are long term good tenants. They are now fearful of the tenant and do not feel safe and secure in the common areas of the building.

The landlord also stated that the tenant damaged wooden drawers by soaking them in the bathtub in her efforts to clean them.

The tenant filed photographs which were not received by me, but received by the landlord. The tenant stated that the photographs show a rash on the tenant's skin which was from flea bites all over her body. The landlord stated that the rash may be due to the tenant's use of all sorts of chemical cleaning products, without gloves.

The landlord stated that the tenant owed rent in the amount of \$1,215.00. The tenant agreed to the amount of unpaid rent but stated that she did not have money to pay rent.

I attempted to mediate an agreement between the parties. The tenant agreed to move out but wanted more time. The landlord agreed to give the tenant more time if she paid rent and stopped interacting with the other tenants and also stopped the cleaning activity during the night. After much discussion, the tenant agreed to everything except cleaning at night. The landlord then, withdrew his offer.

Analysis:

In order to support the notice to end tenancy, the landlord must prove that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Based on the documentary evidence and the verbal testimony of both parties, I find that the tenant has interacted with the other occupants of the building in a negative manner, has accused them of theft, has been verbally abusive, has caused them to feel insecure and unsafe in the building and has caused noise disturbances at all hours of the night. Therefore I find that the tenant has significantly interfered with and disturbed the other occupants. The tenant refused to agree to stop the activity of cleaning at night and therefore in the absence of willingness on the part of the tenant to change this or other behaviors, I must 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.

Conclusion

I grant the landlord an order of possession effective on or before **1:00 p.m. on September 30, 2012.**

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: September 11, 2012.

Residential Tenancy Branch