



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC

Introduction

This matter dealt with an application by the Tenants to cancel a One Month Notice to End Tenancy for Cause dated August 27, 2012, for compensation for damage or loss under the Act or tenancy agreement and for an Order that the Landlords comply with the Act.

At the beginning of the hearing, the Tenants said that their claim for compensation of \$25,000.00 was based on an allegation that the Landlords discriminated against them on the ground of a mental and physical disability and on the ground of their ethnicity. I find that the Tenants' claim discloses elements that fall under the jurisdiction of the Human Rights Code of B.C. and should be pursued under that forum. As a result, the Tenants' application for compensation is dismissed.

Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

Background and Evidence

This month to month tenancy started on July 15, 2009. The Tenant, T.I., is the adult son of the Tenant, L.I. T.I. suffers from a brain injury while L.I. suffers from an undisclosed disability. On August 27, 2012, the Landlords served the Tenants in person with a One Month Notice to End Tenancy for Cause dated August 27, 2012. The sole ground alleged on that 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 Landlords' agent claimed that the Tenants have been given several "breach letters" over the past five months as a result of the following complaints the Landlords received from other tenants of the rental property:

1. The Landlord's agent claimed that the Tenant, T.I., often forgets his keys to the building and rental unit and as a result, waits outside of the lobby doors or the rental unit at all hours of the day for someone to enter so that he can

- enter behind them. The Landlord's agent said this behaviour has frightened other tenants of the rental property. The Landlords' agent said the building manager has spoken to the Tenants a number of times about this but it still occurs.
2. The Landlord's agent also claimed that the Tenant, T.I., was seen both by the building manager and other tenants of the rental property drinking beer in the hallways and spilling beer in the elevator. The Landlord's building manager claimed that when she spoke to the Tenant about the elevator incident, he swore at her and told her to keep quiet.
 3. The Landlord's agent claimed that the Tenant, T.I., has taken "medications" in the lobby of the building and was seen by other residents of the building to be "completely disoriented and unable to hold himself." The Landlord's agent said the building manager tried to discuss these matters with the Tenant, L.I., however she refused to address them.
 4. The Landlord's agent claimed that on June 7, 2012, the Tenant, T.I., went to another suite in the rental property and made threats to an occupant of that suite. The Landlord's agent provided a letter from that occupant who claimed that T.I. asked to speak to a man who he said was smoking on the balcony. The occupant of the other suite said she advised T.I. that there was no man residing in the residence and that T.I. told her that tell the man "*not to talk to my mom or I will slice his throat.*" The Landlord's agent said the other occupant was afraid for her and her children's safety and reported the incident to the RCMP.
 5. The Landlord's agent claimed that on June 8, 2012, he received a written complaint from the tenant of the suite neighbouring the rental unit who claimed that T.I. knocked loudly on her door on July 7, 2012 wanting to speak to a man who was standing on a balcony. This tenant claimed that T.I. returned the following day and knocked loudly on her door again and when she asked him what he wanted he just went to the next door and knocked on it. This tenant claimed that she is concerned for her safety and contacted the RCMP.
 6. The Landlord's agent claimed that the building manager received a number of complaints from other tenants of the rental property that on June 15, 2012 at approximately 10 p.m., the Tenants were making an unreasonable amount of noise. The Landlord's agent claimed that when the building manager attended the rental unit, T.I., was yelling and throwing things around the rental unit. The Landlord's agent said the building manager asked the Tenant, L.I., what was going on but she refused to discuss the matter and as a result, she contacted the RCMP.

7. The Landlord's agent claimed that the building manager received a number of complaints from other tenants of the rental property that on June 20, 2012, T.I. brought an injured crow into the rental property.
8. The Landlord's agent claimed that on July 24, 2012, the building manager received two calls from other residents of the rental property that T.I. was knocking on their doors and telling them to open it. The building manager said she found T.I. at the door of one of the suites and advised him to leave. The Landlord's agent said approximately a week later he later received a notice from one of these tenants stating that he was ending his tenancy because he did not feel his children were safe with T.I. knocking on their door for no apparent reason.
9. The Landlord's agent claimed that on August 8, 2012, the building manager received a number of complaints that T.I. had taken three fire extinguishers from the lobby of the rental property that were being installed in preparation for a fire safety inspection. The Landlord's agent said that the building manager went to the rental unit later that day and recovered the fire extinguishers.

The Landlord's agent said the Tenants have been mistreating the Landlord's employees and in particular L.I. has repeatedly accused the building manager of being "*unfit for her job, a racist, a dictator, discriminating against disabled people and mentally childish.*" The Landlord's agent claimed that these accusations were offensive and that the Tenants had no evidence to justify them. The Landlord's agent said for example, the Tenants have accused the building manager of removing all disabled people from the rental property which is not true. The Landlord's agent also claimed that the Tenant, L.I. has a great deal of animosity toward the building manager and claimed in a letter that "*I now know my mission – to catch this woman and punish [her].*"

The Tenants claim that the Landlords have made a big deal out of petty issues by giving them breach letters and contacting the RCMP. The Tenants argued that the Landlords show a lack of understanding, and that the building manager in particular, was controlling, did not like them and was harassing them because she did not want disabled people in the rental property. In response to the specific complaints, the Tenants claimed that T.I. was under the mistaken belief that the fire extinguishers in the lobby were for the use of tenants of the rental property. The Tenants also claim that the incident of June 7, 2012 was provoked by an unknown person on a balcony making threatening comments to his mother. L.I. claimed that T.I. did not realize that he should have contacted the police to report the threat and T.I., denied that he threatened to slice this person's throat and claimed that he only said to leave his mother alone.

The Tenants also claim that T.I. knocked on a neighbour's door on June 8, 2012 because he wanted to speak to that tenant's daughter with whom he was friends. The Tenants said the neighbour's daughter explained to her mother that it was a misunderstanding but took no steps to advise the Landlord about the mistake. The

Landlords denied this and claim that the neighbour's daughter is not a friend of T.I.'s. The Tenants also claimed that the building manager did not *immediately* advise her about L.I. spilling beer in the elevator or that there were complaints that T.I. had lost his keys and was waiting outside the lobby doors to be let in. The Tenants further claim that the noise disturbance on June 15, 2012 was during the Olympics [*which I note did not occur at that time*] and that T.I. had been sprayed with pepper spray.

Analysis

The Landlord's agent admitted that on all but one of the witness statements provided by the Landlords, the names, suite numbers and telephone numbers of the deponents were removed from the Tenants' copies. While the identity of a complaint may be necessary in order for a party to be able to effectively respond to allegations made against them, in this case I find that it has not affected the Tenants' ability to respond to the allegations contained in the statements. In particular, the Tenants admit that the incidents alleged in those statements did in fact occur, however they deny some of the facts alleged. Where the Landlords have failed to provide corroborating evidence of the facts disputed in the witness statements, I give those particular allegations lesser weight.

I find that some of the incidents relied on by the Landlords in support of the One Month Notice to End Tenancy for Cause dated August 27, 2012 are not significant enough *on their own* to warrant eviction [for example, temporarily bringing in an injured crow into the rental property and waiting outside the rental property where the Tenant resides to gain access because he lost his keys]. However, I find that the following incidents are significant for the following reasons:

1. I find that T.I.'s repeated knocking on other tenants' doors and demanding entry has caused other tenants of the rental property to feel unsafe to the extent that two of the tenants felt threatened enough to contact the RCMP and another claimed that he felt the safety of his children was threatened enough to end his tenancy. Whether T.I. was mistaken about whether a friend or other person to whom he wished to speak resided in the suites in question, I find that this conduct has been repetitive despite the building manager's prior warning to stop doing it.
2. I find it unlikely that T.I.'s removal of three of the Landlord's fire extinguishers from the lobby of the building was due to a misunderstanding as the Tenants claim. In particular, I find it unreasonable that the Tenants would reasonably believe that they required three large fire extinguishers for their own use in a small apartment.
3. I find that T.I.'s drinking alcohol in the common areas of the building is also an offence (ie. drinking in a public place) and that although the building manager

was entitled to ask him not to do so, he refused to do so and instead was rude and aggressive to her.

In summary, I find that the above-noted incidences constitute unreasonable disturbances of the Landlord's employees and other tenants of the rental property as well as a significant interference with the Landlords' responsibility to ensure their respective rights to quiet enjoyment and sense of security. Consequently, I find that there is sufficient evidence of the ground alleged on the One Month Notice to End Tenancy for Cause dated August 27, 2012 and the Tenants' application to cancel it is dismissed without leave to reapply. The Landlord's agent requested and I find pursuant to s. 55(1) of the Act that he is entitled to an Order of Possession to take effect at 1:00 p.m. on September 30, 2012.

Conclusion

The Tenants' application to cancel the One Month Notice to End Tenancy for Cause dated August 27, 2012 is dismissed without leave to reapply. An Order of Possession to take effect on September 30, 2012 has been issued to the Landlord. A copy of the Order must be served on the Tenants and may be enforced in the Supreme Court of British Columbia.

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 12, 2012.

Residential Tenancy Branch