

DECISION

Dispute Codes CNC, O

Introduction

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

Both parties attended the hearing in person and have confirmed receipt of the notice of hearing and submitted evidence package. The Tenant noted that he received the Landlord's evidence late. Both parties agreed that the substance of the late evidence was already in possession of the Tenant for past notices prior to this dispute. As such, I am satisfied that both parties have been properly served as deemed under the Act.

The Tenant has clarified at the beginning of the hearing that he only seeks to have the notice to end tenancy cancelled.

The Landlord is adamant that she wishes the tenancy to end and to obtain an order of possession.

Issue(s) to be Decided

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

Background and Evidence

Both parties agreed that a 1 month notice to end tenancy issued for cause dated October 2, 2012 was served on the Tenant by the Landlord. The notice states an effective date for the Tenant to move out is December 1, 2012. The Tenant has applied for dispute resolution to dispute the notice on October 9, 2012. Both parties also agreed that the stated reasons for cause are:

- Tenant or a person permitted on the property by the Tenant has:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
 - put the landlord's property at significant risk.
- Tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property.

-adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

-Tenant has caused extraordinary damage to the unit/site or property/park.

-Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

Both parties agreed during the hearing that the substance of the notice to end tenancy and the application to cancel the notice is because of the Tenant's non-compliance with an order by the Vancouver Fire and Rescue Service as a result of an inspection. Both parties have submitted copies of the violation notice #1, dated December 22, 2011, violation notice #2, dated August 22, 2012 and violation notice #3, dated September 27, 2012. Both parties agreed in their evidence that the substance of the violation notices is for "hoarding" or the excessive accumulation of things. Violation notice #1 dated December 22, 2011, states, "#1 reduce amount of combustible material in unit 303 by 50%. #2 ensure suite door opens fully." Violation #2 dated August 22, 2012 states, "#1 remove excess combustibles from unit #303, #2 clear means of egress to all windows and doors in unit #303. Work to proceed immediately. To be completed September 15, 2012." The Landlord has provided an undated letter, warning the Tenant that a violation notice dated August 22, 2012 outlining the notice and actions needed to comply. The Landlord states that they have now incurred a \$200.00 fine from the Vancouver Fire and Rescue and because of a backlog are awaiting the fine letter. The Landlord refers to an email submitted by the Tenant from the Vancouver Fire and Rescue Inspector, D.B. in confirmation. The Tenant states that he suffers significant psychological impediments. Both parties have agreed that the Tenant has made improvements on complying with the inspectors notice, but have not met the requirements set out by the Vancouver Fire and Rescue Inspections.

Analysis

As both parties are in agreement that the Tenant was served with the 1 month notice to end tenancy issued for cause on October 2, 2012, I find that the Tenant was properly served. I find based upon the evidence provided by both parties that the Landlord has established a claim for reasons to end the tenancy. There is no dispute that the main issue stems from "hoarding" by the Tenant. It is undisputed that the Tenant does suffer from psychological impediments. However, I find that the Landlord has been reasonable in their attempts to work with the Tenant in resolving the issues as shown by the first violation notice in December of 2011 to accommodate the Tenant. It was only after been issued a violation notice fine by the Vancouver Fire and Rescue in September 2012 after 9 months that any action was pursued. The Landlord is only

seeking to comply with safety concerns for the Tenants in the 42 unit building. Both parties confirmed in their evidence that this is not a residence for the Tenant. The Tenant resides in a neighboring building and has kept this rental unit for sentimental value. The Tenant's application to cancel the notice to end tenancy issued for cause is dismissed. The 1 month notice to end tenancy issued for cause dated October 2, 2012 is upheld. The Landlord is granted an order of possession to be effective on the date of the notice shown as December 1, 2012.

Conclusion

The Tenant's application is dismissed.

The Landlord is granted an order of possession for December 1, 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: November 16, 2012.

Residential Tenancy Branch