



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST REALTY GROUP (CAMPBELL RIVER) LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC, FF, O

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Cause, for more time to make the application, to recover the filing fee for this proceeding and for other considerations.

A hearing was conducted on January 16, 2013 in which the Tenant's application was dismissed and the Landlord was awarded an Order of Possession. The Tenant then applied for a review consideration and was awarded a reconvened hearing for today February 19, 2013. The review award to the Tenant was based on an error in transmitting documents by Service B.C. As a result today's hearing will review the evidence and rehear both the Tenant and the Landlord with respect to the original application of the Tenant dated November 23, 2012.

The Tenant said he did not serve the Landlord with the Reconvened Hearing package as he has been out of town working and he did not receive the review hearing package until February 15, 2013. The Tenant continued to say that he has still not served the Hearing package to the Landlord. The Landlord said she phone the Residential Tenancy Branch when she received the review decision and the Branch told her the details of the Hearing date and conference call information. The Landlord continued to say their business is open on Saturdays therefore the Tenant could have serviced the hearing documents to her on February 16, 2013. The Tenant said he did not know the Landlord was open on Saturday. The Landlord said she agreed to go ahead with the hearing as it has been a lengthy period of time since she issued the Notice to End Tenancy and she would like the situation resolved. The Tenant agreed to continue with the hearing even though he did not serve the Landlord with the Reconvened Hearing documents. It should be noted there was no new evidence included in the Reconvened Hearing documents, just the Notice of Hearing and a copy of the review decision which the Landlord already had in her possession

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on January 1, 2011 as a month to month tenancy. Rent is \$600.00 per month payable in advance of the 1st day of each month. The Tenant paid a security of \$300.00 and a pet deposit of \$300.00 at the start of the tenancy.

The Landlord said she served the Tenant with a 1 Month Notice to End Tenancy for Cause dated November 15, 2012. She served the Notice on November 15, 2012 by posting it on the Tenant's door. The Effective Vacancy date on the Notice was December 31, 2012. The Tenant is living in the unit and the Landlord said they want to end the tenancy.

The Landlord continued to say that the Tenant has had three warning letters and the Police have been called to the rental unit on one of the occasions. The first warning letter was issued on April 8, 2011 and indicated the Tenant had breached the tenancy agreement because he had threatened another tenant. The Landlord said the second warning letter dated January 11, 2012 was issued because the tenants above the Tenant had called the Police because the Tenant had assaulted them. The third warning letter was issued on October 12, 2012 and indicated that the Tenant would be evicted if his threatening behaviour, his intoxication and him playing loud music did not stop. The Landlord said the Tenant did not correct the situation and she had additional complaints about the Tenant's behaviour so on November 15, 2012 the Landlord issued a 1 Month Notice to End Tenancy for significantly interfering or unreasonably disturbing other occupants or the landlord and for seriously jeopardizing the health and safety or lawful right of another occupant or the landlord. The Landlord said there has been two other tenants move out of the rental complex because of the Tenant's behaviour.

The Tenant said there were no charges filed against him by the Police when they came to the rental unit and the Tenant said the other tenants that left the rental complex were evicted. The Landlord said she has evicted tenants for non payment of rent, but the only Notice to End Tenancy for Cause that she has issued was given to the Tenant. The Landlord said the upper unit tenants abandoned the unit because of issues with the Tenant. The Tenant said he has talked to the other tenants about noise issues as the rental complex is poorly insulated, but he has not threatened anyone. The Landlord said they tried to work with the Tenant by carpeting the upper unit to reduce the noise issues and they have asked the Tenant to move to the upper unit so that he would not hear anyone above him. The Landlord said the Tenant declined their offer to move to the upper rental unit. The Tenant said he is away working most of the time so he has not caused any noise in the complex and the Tenant said the carpeting has improved the noise issues in his unit considerably. The Tenant said there should not be any more problems in the future as the rental complex appears to be quieter now.

The Tenant concluded his testimony by saying he has not threatened anyone in the rental complex and he is away at work most of the time so he is not there to cause any noise or disturbances. The Tenant requested the Notice to End Tenancy for Cause be cancelled and the tenancy to continue.

The Tenant was questioned if he responded to the Landlord's warning letters and the Tenant said he did not respond or talk to the Landlord when he received the 3 warning letters.

The Landlord closed her testimony saying they issued the 1 Month Notice to End Tenancy due to a number of incidents which the warning letters verify and because they did not see the Tenant correcting his behavior in the rental complex. The Landlord requested to end the tenancy as previously ordered in the decision and order dated January 16, 2013.

Analysis

It appears from the testimony at the hearing that communications between the Landlord and the Tenant has broken down. There was contradictory testimony provided by both the Tenant and the Landlord regarding the facts of the situation. It is clear the Tenant did not respond to the Landlord's warning letters requesting the Tenant to correct his behaviour. By not responding to the Landlord's warning letter and when the Tenant continued the threatening behaviour additional warning letters were issued. As a result the Tenant by default is not contesting the Landlord's claims. Consequently I find the Tenant has breached the tenancy agreement by significantly interfering or unreasonably disturbing other occupants or the landlord and for seriously jeopardizing the health and safety or lawful right of another occupant or the landlord. I find the Tenant has not established grounds to be granted an order to cancel the 1 Month Notice to End Tenancy for Cause dated November 15, 2012 and I order the Order of Possession dated January 16, 2013 to stand in full effect.

As the Tenant has been unsuccessful in this matter I order the Tenant to bear the cost of the filing fee of \$50.00 which the Tenant has already paid.

Conclusion

The Tenant application is dismissed without leave to reapply.

The Order of Possession dated January 16, 2013 is in full effect.

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: February 19, 2013

Residential Tenancy Branch

