



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC CNR OPC MNR MNDC FF

Introduction

This hearing dealt with applications by the tenants and the landlord. The tenants applied to cancel a notice to end tenancy for unpaid rent or utilities and a notice to end tenancy for cause, as well as for monetary compensation. The landlord applied for an order of possession pursuant to the notice to end tenancy for cause, as well as for monetary compensation. Both tenants and the landlord participated in the teleconference hearing.

Preliminary Issues

Service of Applications and Evidence

The landlord confirmed that he received the tenant's application and evidence. The tenants stated that they did not receive the landlord's application. The landlord provided evidence that he sent his application by registered mail to the mailing address provided by the tenants. I found that the tenants were deemed served with the landlord's application.

Monetary Portions of Applications Severed

I determined that the issues of the two notices to end tenancy took precedence, and only heard evidence on those issues. The monetary portions of both applications are dismissed with leave to reapply.

Invalid Notice to End Tenancy for Unpaid Rent or Utilities

On January 17, 2013, the landlord served the tenants a notice to end tenancy for unpaid rent or utilities. The landlord confirmed that he had given the tenants a written demand for unpaid utilities on January 15, 2013. A landlord may not issue a notice to end tenancy for unpaid utilities until 30 days after giving the tenant a written demand to pay

utilities. The landlord also confirmed that the amount of rent indicated owing on the notice, \$139.70, was not in fact unpaid rent but amounts owing for cable tv and telephone bills that were to be paid in addition to the rent. A notice to end tenancy for unpaid rent may only claim an amount for rent, not for any other amounts owed. For these reasons, the notice to end tenancy for unpaid rent dated January 17, 2013 is not valid. I therefore cancelled the notice to end tenancy for unpaid rent or utilities.

Issue(s) to be Decided

Is the notice to end tenancy for cause valid?

Background and Evidence

The tenancy began on November 1, 2012. The rental unit is a basement suite in a house. The upper portion of the house is occupied by other tenants under a separate tenancy agreement.

On January 14, 2013, the landlord served the tenants a notice to end tenancy for cause. The notice indicates that the reason for ending the tenancy is that the tenants significantly interfered with or unreasonably disturbed another occupant or the landlord.

Landlord's Evidence

The upstairs tenants and the downstairs tenants both made complaints about each other to the landlord. In mid-December 2012, the landlord was out of town for 10 days, and during that time things accelerated. The upstairs tenants and the downstairs tenants started calling the police on each other. By mid-January, the police had been called six to eight times. The landlord tried to make peace between the families but he could not. He was worried that it was going to get physical, because there was a lot of vulgar language being used. One of the downstairs tenants, PW, pushed the 14-year-old son of the upstairs tenants. The electrical panel for the house is located in the basement suite, and the downstairs tenants turned off the power to the upstairs. The landlord then decided to serve notices to end tenancy for cause on both the upstairs tenants and the downstairs tenants.

In the hearing, the landlord orally requested an order of possession.

Tenants' Response

The tenants stated that they were not at fault for the disputes between themselves and the upstairs tenants. The downstairs tenants went upstairs numerous times to ask the upstairs tenants to take their shoes off, and to turn down loud music and not use foul language. The teenage children of the upstairs tenant had a party late into the night with numerous underage drinkers. The downstairs tenants tried to work things out, but the upstairs tenants did not want to do so. The upstairs tenant threatened the downstairs tenants with a baseball bat and pushed the downstairs tenant JK.

PW acknowledged that she pushed the upstairs tenant's son, but stated that the upstairs tenants had pushed and threatened JK first. Both JK and PW acknowledged that they shut off the power two or three times.

Analysis

I find that the notice to end tenancy for cause is valid. The tenants acknowledged that they shut off the power on more than one occasion, and that PW pushed the upstairs tenant's son. The tenants also stated that they went upstairs "numerous times" to complain about noise. I find that the tenants significantly interfered with and unreasonably disturbed the upstairs tenants. It is not relevant that the upstairs tenants may have also been at fault; the evidence clearly shows that the downstairs tenants also engaged in interfering and disruptive behaviour, which I find amounts to sufficient cause to end the tenancy.

The landlord orally requested an order of possession, and accordingly I grant the landlord an order of possession pursuant to the notice to end tenancy for cause.

As neither application was fully successful in regard to the two notices to end tenancy, I decline to award either party recovery of their respective filing fees.

Conclusion

The tenants' application to cancel the notice to end tenancy for cause is dismissed.

I grant the landlord an order of possession effective February 28, 2013. The tenants must be served with the order of possession. Should the tenants 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 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 18, 2013

Residential Tenancy Branch

