



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC and RR

Introduction

By application of February 18, 2013 the tenants sought to have set aside a one-month Notice to End Tenancy for cause served on February 16, 2013 and setting an end of tenancy date of March 16, 2013 which is automatically corrected by section 53 of the *Act* to March 31, 2013.

The tenants also sought a rent reduction and an order that the landlord comply with the legislation and rental agreement, matters which I have severed as permitted under item 2.3 of the Rules of Procedure as the allotted time was taken by the more pressing matter of the Notice to End Tenancy.

As a preliminary matter, the tenants requested an adjournment on the grounds that they did not have the landlords' evidence which had been sent by registered mail. The tenants claimed that a postal error had resulted in it having been returned to the landlords. I denied the adjournment and proceeded to accept the evidence orally.

As a matter of note, after a caution, it became necessary to mute the tenants' line a number of times as they repeatedly spoke on top of the landlords' testimony making it impossible to discern.

Issue(s) to be Decided

Should the Notice to End Tenancy be set aside or upheld?

Background and Evidence

This tenancy began on July 1, 2012 under a fixed term rental agreement set to end on June 30, 2013 with the option of continuing month to month. The landlords hold security and pet damage deposits of \$600 each paid at the beginning of the tenancy.

During the hearing, the landlords gave evidence that the Notice to End Tenancy had been issued after a water intrusion discovered on January 25, 2013 resulted in the need for extensive renovation of the rental unit.

The landlords stated that they had offered to put the tenants up in a hotel during a major portion of the work carried out from February 11 to 18, 2013 but the tenants had declined. They had also found the tenants alternate living accommodation for the full month which the tenants had also declined. In consideration of the disruption that would be caused by the work, the landlords waived the \$1,200 rent for February 2012.

The landlords stated that, despite the offers of temporary alternate accommodation the tenants had remained in the rental unit and had repeatedly interfered with or obstructed trades people contacted to do the work. The jobs included gutting the bathroom, replacing floor joists, gutting two bedrooms and electrical work, among others.

The landlords who live 600 miles from the rental unit stated that they and the tenants had established a norm of communicating by email and telephone. On occasion, the female tenants' mother acted as immediate contact, but the landlords stated that the tenants had always been asked to contact them directly if any matters of substance arose.

The landlords became very concerned when one of the tenants called the mother at work on February 13, 2013 multiple times making demanding to know when their new bathtub was coming and disturbing her to the point of tears.

That same week, the female tenant denied entry to an electrician contracted by the landlords because she had demanded to seek a work permit which the landlord stated was not required for the work he intended to do.

The landlord stated that on three occasions, he had been required to pay a full day rate to electricians because of interference by the tenants who had made promise that they would vacate the rental unit when workers needed free access to the site. On one of the occasions, one of the electricians had asked the contractor to please ask the tenants to let him do his work without interference.

The landlords stated that after giving the accustomed notice by email, they attended the rental unit on February 16, 2013 to find a note on the door from the male tenant inviting them in and asking that they lock the door when they leave.

The female landlord said that after she had entered, she was verbally accosted by the male tenant who said she had no right to be there and demanded that she leave, .."or else." She stated that she left a new fire extinguisher she had brought because the tenants had expressed some discomfort over the wiring and departed.

The landlords also had to deal with a report by the male tenant that he had ascertained an exposed wire was live. An attending electrician verified that the wire was not live and showed the tenant the appropriate method for testing for such.

The parties described a number of unpleasant telephone and personal exchanges with one another in the efforts to do the necessary repairs, and the tenants referred to a number of instances in which they queried the tradesmen visiting or working on the site.

The landlords stated that because of interference by the tenant, they had had to pay an additional and unnecessary \$800 to trades people.

Section 47(1)(d) of the *Act* permits a landlord to serve a one-month notice to end tenancy under circumstances in which the tenant has, "significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property."

In the present matter, I accept the evidence of the landlord that they offered the tenants alternate accommodation for the month or more or temporary hotel accommodation for shorter periods.

While the tenants had pledged to stand aside and not hinder the substantial renovations while they remained, I find that the tenants not only fell short on that goal, but with intention obstructed the progress on the work. I find that the tenants had no right to interfere with persons with whom the landlord had contracted without his consent.

Therefore, I declined to set the Notice to End Tenancy aside.

On hearing that determination, the landlord requested and I find he is entitled to an Order of Possession to take effect at 1 p.m. on April 15, 2013 as requested. Section 55(1) of the *Act* compels the issuance of the order if a tenant's application to set a notice to end tenancy aside is dismissed and the notice is upheld.

Conclusion

The landlords' copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on April 15, 2013.

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: March 12, 2013

Residential Tenancy Branch

