



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant by posting on June 30, 2013. The tenants received it on Jul1, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated June 30, 2013?

Background and Evidence

The tenancy began on February 1, 2009. The present rent is \$850 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$425 at the start of the tenancy.

Analysis

Grounds for Termination

The Notice to End Tenancy relies on section 47(1)(e) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

...

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

Analysis

The landlord submitted as evidence a petition signed by a number of other residents of the rental property. However, she did not provide it to the tenant stating these other residents were concerned about their own safety. I advised the landlord that the rules of natural justice require that the other side be given notice of this evidence and that I could not rely on it given that the landlord had not provided the Tenants with a copy.

The landlord stated she is not concerned about the female tenant JW. However, she has witnessed the male tenant JR selling drugs in the parking lot and in the street in front of the rental property. The female tenant disputes the testimony that JR is selling drugs. However, she acknowledged that he has mental health issues and he has been driving a vehicles for less than reputable people. She further stated that he has arranged to have his drivers license taken away and is no longer involved with these people. JW also acknowledged that JR is been having problems with his medication and the ambulance has been called on occasion.

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The parties mutually agree to end the tenancy on December 31, 2013.
- b. The parties request the arbitrator to issue an Order for Possession for that date.
- c. This settlement is without prejudice that should there be further problems from the conduct of the tenants in the rental unit the landlord retains the right to serve a new Notice to End Tenancy raising the same grounds and evidence in the within notice or file a claim for the early termination of the tenancy. The tenant retains the right to dispute this Notice or claim.

Order for Possession

As a result of the settlement I granted an Order for Possession effective December 31, 2013.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: August 16, 2013

Residential Tenancy Branch

