



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF, CNC, OLC, ERP, RP, FF

Introduction

There are applications filed by both parties. The Landlord has filed an application for an order of possession issued for cause and recovery of the filing fee. The Tenant has made an application to cancel a notice to end tenancy issued for cause, an order for the Landlord to comply with the Act, Regulation of Tenancy Agreement, an order for emergency repairs for health or safety concerns, an order for repairs to the unit, site or property and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

This hearing was adjourned from October 3, 2013 for a continuation to November 20, 2013 at 2:30 pm due to lack of time to complete the hearing. The hearing was reconvened on November 20, 2013 at 2:30 pm with both parties in attendance.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Is the Tenant entitled to an order for emergency repairs?

Is the Tenant entitled to an order for repairs?

Background and Evidence

This Tenancy began on May 29, 2004 on a fixed term tenancy ending on November 30, 2004 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$695.00 payable on the 1st of each month and a security deposit of \$347.50 was paid on May 31, 2004.

Both parties agreed that the Landlord served the Tenant with a 1 month notice to end tenancy issued for cause dated August 16, 2013 in person on August 16, 2013. The notice states an effective vacancy date of September 30, 2013. The notice also shows 4 reasons for cause selected.

- Tenant is repeatedly late paying rent.

- Tenant or a person permitted on the property by the tenant has:

Significantly interfered with or unreasonably disturbed another occupant or the landlord. Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

- Tenant has engaged in illegal activity that has, or is likely to:

Jeopardize a lawful right or interest of another occupant or the landlord.

On the first reason for cause, the Landlord states in his direct testimony that the Tenant is repeatedly late paying rent. The Landlord states that within the last 12 months, the Tenant was late paying rent on May 6, 2013 for May, June 18, 2013 for June, July 22, 2013 for July and August 14, 2013 for August. Both parties agreed based upon the submitted copy of the signed tenancy agreement that rent was due on the 1st of each month. The Tenant argues that he had a verbal agreement with the Landlord. S.G. that allowed him to pay rent late. The Landlord disputes this claim. The Landlord refers to submitted copy of a letter dated August 28, 2008 which states that the Tenant was late paying rent in 2008. The Landlord has also submitted a letter dated August 16, 2013 which provides for late rent payment dates 8 times since the beginning of 2013. The Landlord's letter reiterates that future late rent payments will no longer be accepted. The Landlord has also submitted a letter dated August 16, 2013 which states that rent was accepted on August 14, 2013 for use and occupancy only for the late August rent.

For reason number two for cause, the Landlord states that the Tenant changed the locks of the rental unit without permission or notice to the Landlord in August of 2013. The Landlord states that upon finding out from another source, the Tenant was notified on August 16, 2013 to provide a copy of the key to the Landlord for emergency access. The Tenant confirmed in their direct testimony that the locks were changed without permission or notice and that the Landlord was provided a copy of the new key

approximately 1 week later upon receiving the request from the Landlord on August 16, 2013.

For reason number three, the Landlord states that he was informed that the Tenant damaged the plants in the lobby, has caused excessive noise in the rental unit and that the Landlord does not have a key to the rental unit.

For reason number four, the Landlord states that the illegal activity that the Tenant has changed the locks to the rental unit without permission. The Landlord is unable to provide what legal statute the Tenant has breached.

Analysis

I find on a balance of probabilities that the Landlord has established grounds for repeatedly late rent payments as outlined in reason #1 for the 1 month notice to end tenancy issued for cause dated August 16, 2013. The Tenant has been repeatedly late paying rent and is unable to provide sufficient evidence to satisfy me that permission for repeated late payments of rent was acceptable to the Landlord or that permission was granted. This is supported by the letter dated August 28, 2008 and was later re-confirmed on August 16, 2013 as shown by the submitted copies of the letters. As such, the Landlord is granted an order of possession and the remaining reasons for cause need not be reviewed. The order must be served upon the Tenant. Should the Tenant 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.

The Landlord is entitled to recovery of the \$50.00 filing fee for being successful. The Landlord is granted a monetary order for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The Tenant's Application to cancel the notice to end tenancy is dismissed as the Landlord has been successful in establishing his claim. As such, the Tenant's claims for repairs are not required as the Tenancy is at an end.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$50.00.
The Tenant's Application is dismissed without leave to reapply.

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 27, 2013

Residential Tenancy Branch

