Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1136 Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Landlord: OPC and FF
Tenants: CNC and FF

Introduction

This hearing was convened on applications by both the landlord and the tenant.

By application of received on July 29, 2013, the landlord sought an Order of Possession pursuant to a one-month Notice to End Tenancy for cause served on July 11, 2013 by posting o the tenants' door.

By prior application of July 12, 2013, the tenants sought to have the Notice to End Tenancy for cause set aside.

Both parties requested recovery of their filing fee from the other.

Issue(s) to be Decided

Should the Notice to End Tenancy be set aside or upheld and supported with an Order of Possession.

Background and Evidence

This tenancy began on July 1, 2011 with one of the present tenants, JF, and another co-tenant. About the time the co-tenant left in the late fall of 2012, J.F. took on two new co-tenants, his cousin TB and his cousin's girlfriend, K.F. without prior consent of the landlord.

After some difficulty obtaining full applications from the new co-tenants, the landlord approved their tenancy in January of 2013.

At present, rent is $800 plus $50 parking per month and the landlord holds a security deposit of $875 paid on June 7, 2011 and a pet damage deposit if $200 paid on March 27, 2013.

During the hearing, the landlord gave evidence that, after a number of incidents of non-compliance, the precipitating incident that resulted in service of the Notice to End Tenancy was domestic violence between TB and KF during the late night hours of June 30, 2013 which resulted in the arrest and charges against TB.

JF held that the matter should not be held against the tenancy as it was he who called the police.

The landlord stated that the incident of June 30, 2013 had followed another incident of police attendance on or about June 5, 2013.

The tenant argued that the visit by police was simply part of a follow up investigation and that the tenancy should not be penalized simply because police officers had attended the rental unit to make enquiries.

However, the resident manager, who lives in the rental unit below the subject unit, stated that the follow up visit was as a result of loud party and a loud altercation between TB and KF the night before. They had apparently left the rental unit following the altercation, and the follow up visit was a result of KF having sought police assistance to remove her property.

The landlord also gave evidence of a recent incident in late May 2013 in which the tenants had called for repair to their dishwasher that had stopped working. A service provider attended the rental unit on May 30, 2013 to make repairs. However, he reported to the landlord that the initial problem with a drain hose would have been an easy fix, but he found parts on the floor and countertop that had been removed manually and that had rendered the appliance beyond repair.

The landlord wrote to the tenants on June 28, 2013 and offered to share equally with the tenants the cost of replacing the washer, or, the tenants could find a replacement themselves subject to verification that it was equal to the original by the service provider. The landlord gave the tenants until July 10, 2013 to propose a resolution, but they did not reply and had done no repair at the time of the hearing.

The landlord submitted into evidence five letters from tenants of other rental units articulating various complaints about disturbances emanating from the subject rental unit and three of those stated that they would have to end their own tenancies if the offending behavior continued.

The tenant argued that the letters were all dated for a period shortly before the hearing and were obviously solicited by the landlord. However, it is not uncommon nor does it nullify the complaints if a landlord simply asks tenants to record their grievances in writing to corroborate events reported verbally at the time..

The landlord also submitted into evidence a warning letter written to the primary tenant on January 24, 2013 that he would be issued with a Notice to End Tenancy if he did not provide written assurance to correct a number of issues: significant interference with the landlord, breach of a material term, and the addition of other tenants without consent.

The letter cited other warnings of September 1, November 8 and December 7, 2012 as hosting too many other people, excessive noise, marijuana use and littering. Copies were submitted into evidence.

The tenant replied by letter of January 30, 2013 expressing the good fortune the tenants felt at living in the building and pledging to be model tenants in future.

The tenant made argument that the events presented by the landlord were exaggerated because the building manager lives below the rental unit and imposes a higher standard than she would on other units.

I find the preponderance of evidence does not support that position. For example, she had spent an inordinate amount of time and effort awaiting the proper application forms from the new tenants, had issued a number of warnings without giving notice, and had bent the rules to permit the tenant's unauthorized dog to return when the home he had found for it didn't work out.

Analysis

I find that the evidence of the landlord clearly warrants the Notice to End Tenancy for cause including those causes listed under section 47(1):

> (d) the tenant or a person permitted on the residential property by the tenant has
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> (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
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> (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
>
> (iii) put the landlord's property at significant risk;

I further find that the domestic violence constitutes illegal activity as contemplated under section 47(1)(e) of the *Act.*

Therefore, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on August 31, 2013, the end date set by the Notice to End Tenancy. The tenant stated that anticipated that outcome had found accommodation for September 1, 2013 but had argued on behalf of his co-tenants.

I further order that the landlord may recover the filing fee for this proceeding by retaining $50 from the tenants' security deposit.

Conclusion

The tenant's application is dismissed without leave to reapply and the Notice to End Tenancy is upheld.

The landlord's 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 August 31, 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: August 15, 2013

Residential Tenancy Branch