



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0926500 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

Tenants' application (filed September 17, 2013): CNC; OLC; AS

Landlords' application (filed October 15, 2013): OPC

Introduction

This Hearing was convened to consider cross applications. The Tenants seek to cancel a One Month Notice to End Tenancy for Cause; an Order that the Landlords comply with the Act, regulation or tenancy agreement; and an Order allowing the Tenants to assign or sublet the rental unit.

The Landlords seek an Order of Possession.

The parties gave affirmed testimony at the Hearing.

The male Tenant testified that he hand delivered the Tenants' Notice of Hearing documents to the Landlord JH, but he was not certain of the date. The Landlord JH, who is also a representative of the numbered company, stated that she received the Tenants' Notice of Hearing package on September 23, 2013.

The Landlord JH testified that she served both of the Tenants with copies of the Landlord's Notice of Hearing documents and copies of the Landlord's documentary evidence at the rental unit, by handing the documents to the Tenants on October 15, 2013.

Preliminary Matters

The Tenants' Application for Dispute Resolution indicates that they are seeking an Order that the Landlords comply with the Act, regulation or tenancy agreement; however, they did not provide details in their Application with respect to what Sections of the Act, regulation or what term of the tenancy agreement they were referring to. When a party seeks this relief, the Application for Dispute Resolution requires the Applicant to provide details in the "Details of Dispute Resolution" section. No details were provided. Therefore this portion of the Tenants' application is **dismissed**.

Issues to be Decided

- Should the Notice be canceled or upheld?
- Should the Tenants be allowed to assign or sublet the rental unit?

Background and Evidence

This tenancy started on March 1, 2010. Current rent is \$850.00 due on the first of every month. The Landlords are holding a security deposit in the amount of \$422.50.

The corporate Landlord purchased the rental property, which contains 40 units, approximately 1 ½ years ago.

The Landlords issued a Notice to End Tenancy for Cause and served the Tenants with the Notice by handing it to JC on September 10, 2013.

The Landlord JH testified that the Tenants are disturbing other occupants by having loud parties at all hours of the day and night. She stated that people who are looking for the Tenants are knocking on doors at night and early morning. One of these people became confrontational and police were called at 3:00 a.m. The Landlords provided a letter in evidence from local police which confirms that from October 1, 2010 to October 16, 2013, police have attended at the rental unit on 23 occasions “for a variety of complaints”. The Landlords provided letters in evidence from two complainants. JH stated that there are new occupants in the rental unit beside the Tenants’ who have a young family and that they are threatening to move if something isn’t done to stop all of the disturbances.

JH testified that the Landlords provided the Tenants with a warning letter in July, 2013, after the Tenants had a loud party and the police were called. A copy of the letter was provided in evidence.

JH stated that the Tenants have guests “couch surfing” on a regular basis and that the newest guest moved in with his dog. JH submitted that the Tenants have sublet the rental unit to this man. She stated that the tenancy agreement does not allow the Tenants to have animals in the rental unit.

JH testified that on September 7, 2013, the Tenant pulled a man off his bike and beat him up. The man (“TC”) went home and got a baseball bat, then went to the rental unit and broke a window of a vehicle in front of the rental unit. The male Tenant was sweeping in the front of the rental property, and beat TC with the broom. The Tenant followed TC to another unit at the rental property and started a screaming match with

the occupant of that rental unit. The Landlords provided photocopies of pictures of TC's injuries and a written statement from TC in evidence.

The Tenant JC submitted that the letters of complaint were written after the Notice to End Tenancy was issued and that they refer to incidents that are alleged to have happened after the Notice was issued. He denied partying or causing disturbances. He stated that the Tenants sell food out of the rental unit, and that people including the Landlord JH purchase food on plates and pay \$12.00 a plate. JC stated that the people who are visiting the rental unit are there to purchase food. JC testified that a couple of the times that the police visited the rental unit because the Tenants called them because their grandson was attacked by another tenant in the rental property.

JC denied subletting the rental unit to anyone. He stated that the Tenants are still living at the rental unit.

JC responded to JH's allegations about the incident on September 7, 2013. He stated that he and his grandson were driving the Tenant's truck and narrowly missed hitting TC because TC was not cycling with due care and attention. An argument ensued and TC kicked the truck. JC got out of his truck and TC swung at him. JC hit TC once, knocking him to the ground. JC went home and was sweeping in the yard when TC arrived and took a baseball bat to JC's car window. JC stated that he hit TC with the broom in self defense. He stated that the bruise on TC's back was caused when TC landed on his back after the first altercation. JC stated that the police came to the rental property and spoke to both of them. He stated that TC admitted to smashing the window and said he would pay for the damage. JC testified that the police have not charged either of them.

JC submitted that the Landlords are trying to evict the Tenants in retaliation for a claim the Tenants have made against them with respect to bed bugs. He stated that he received no complaints from anyone until after he served the Landlords with papers regarding the bed bug complaint.

The Tenants provided no documentary evidence other than a copy of the Notice to End Tenancy.

The Landlord JH responded that the Tenants served the Landlords with papers after the Tenants were served with the Notice to End Tenancy, not before. She testified that she served the Tenants with the letter of complaint in July, 2013.

Analysis

When a landlord seeks to end a tenancy, the onus is on the landlord to prove on the balance of probabilities that the tenancy should end for the reasons indicated on the notice to end tenancy. The Notice to End Tenancy discloses the following reasons to end the tenancy:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant has assigned or sublet the rental unit/site without landlord's written consent.

With respect to the second reason, I find that the Tenants have not assigned or sublet the rental unit. Therefore, I find that this is not a valid reason to end the tenancy. Furthermore, JC testified that the Tenants do not wish to assign or sublet the rental unit and therefore their application for an Order allowing them to do so is dismissed.

I am satisfied that the Tenants were provided with the warning letter dated July 15, 2013. The letter warns the Tenants about complaints arising from a loud party which was attended by the police. The letter states, in part, "if this happens again you will be receiving an eviction notice." One of the other letters provided in evidence that was written by a neighbor who is also a tenant refers to the July 15th warning letter and states, in part, "They still have lots of people over in the evenings lasting late into the night which sometimes they are all standing outside in the parking lot in front of their place making a lot of noise."

I accept the Landlords' evidence that even after the Tenants were served with the Notice to End Tenancy, there were other incidents on October 9 and 11, 2013, involving a different neighbor.

Based on the evidence provided and the balance of probabilities, I find that the Landlords have cause to evict the Tenants because they, or a person permitted on the property by the Tenants, have significantly interfered with or unreasonably disturbed another occupant or the Landlords. Therefore, I uphold the Notice to End Tenancy and grant the Landlords' application for an Order of Possession.

I find that the effective date of the end of tenancy is October 31, 2013. The Landlord's application for an Order of Possession is granted, **effective 1:00 p.m., October 31, 2013.**

Conclusion

The Tenants' application is dismissed in its entirety.

I hereby grant the Landlords an Order of Possession **effective 1:00 p.m., October 31, 2013**. This 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: October 29, 2013

Residential Tenancy Branch

