



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to have the notice set aside?

Background and Evidence

The tenancy began on or about August 15, 2007. Rent in the amount of \$785.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$337.50.

The tenant gave the following testimony:

The tenants' agent stated that he was contacted by the subject tenant and was offered the opportunity to move into the subject property. On June 29, 2013 the tenant provided information to the resident manager that the agent wished to move in for July 1, 2013. The agent stated that he provided all the information requested by the landlord including his resume and names of his customers from his personal business. The agent stated that the resident manager requested lots personal information that he thought was

inappropriate but complied with the requests. The agent stated that the resident manager had approved his application to move in.

The landlords gave the following testimony:

The resident manager stated that she had reviewed the information provided by the agent however she was concerned about the history of short tenancies. The resident manager stated that she wished to have further discussions with the agent about his short tenancies. The resident manager stated that she had not at anytime approved of the agent to become a tenant at this location. The property manager stated that the tenant did not provide the appropriate notice to take on a co-tenant as agreed upon in their tenancy agreement. The property manager stated that they have provided written notice to the tenant to have the agent move out however the agent did not comply. The property manager stated that she wished the tenancy to end as the tenant or the agent is not complying with the agreement. The landlords issued a One Month Notice to End Tenancy for Cause on August 15, 2013 with an effective date of September 30, 2013. The resident manager stated that the tenants attempted to pay the rent for October however half of the rent was in cheque form from the agent. The manager did not accept the rent as she was fearful that "the Judge" would find that they had complied and that a tenancy with the agent existed.

Analysis

When a landlord issues a notice under Section 47 they must provide evidence for the basis of issuing the notice. The landlords issued the notice for a "Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so". The resident manager adamantly denied ever giving the agent the approval to move in. The agent stated during his testimony that the resident manager gave him verbal authorization to move in, however he later changed his testimony and stated that the tenant called him on the phone to let him know that he had been approved.

The tenant was present for the teleconference but chose not to give testimony. I found the agent to be contradictory and inconsistent in his version of the events. He stated he had "piles of evidence" to prove he was approved to move in however he did not submit any of that evidence for this hearing. When I questioned him about who gave him permission to move in his testimony ranged from a written authorization from the resident manager to a verbal authorization to a phone call from the tenant. I did not find the agent's testimony compelling. The landlord and tenant signed a tenancy agreement that allows the landlord to interview and to screen any potential new co-tenants.

I found the resident manager and property manager to be conducting their business in good faith and in Accordance with the Act. The resident manager was clear that she was still in the process of reviewing the agent's application and was seeking to have further discussions with him however he had already moved in, obtained keys without the management's knowledge and was using the facilities such as the laundry without permission. I find that the tenant has breached their tenancy agreement with the landlord.

Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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 One Month Notice to End Tenancy for Cause on August 15, 2013 with an effective date of September 30, 2013 remains in full effect and force.

Due to the date of this hearing being held, the landlords feel that in fairness to the tenants, the order of possession should take effect at 1:00 p.m. on October 31, 2013. It was explained to both parties the possible options if the tenants do not pay for the month of October and both parties indicated that they understood.

Conclusion

The landlord is granted an order of possession.

The tenants' application is dismissed in its entirety 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: October 03, 2013

Residential Tenancy Branch

