



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RR, DRI, OLC, RP, PSF, LAT

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking orders to cancel a one month Notice to End Tenancy for cause, to dispute an additional rent increase, for money owed or compensation under the Act, for orders for the Landlord to comply with the Act, to make repairs to the rental unit, to provide services or facilities required by law, to authorize the Tenant to change the locks at the rental unit, and to allow the Tenant to reduce the rent for services or facilities agreed upon but not provided.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issues

The Tenant had applied for relief on three issues in August of 2013; however, on November 22, 2013, the Tenant amended her Application to include a request to cancel a one month Notice to End Tenancy and the Tenant also added five other issues to be determined.

It was explained to the Tenant that the primary issue before me in this hearing was the issue of whether or not the Notice to End Tenancy would be cancelled, as it dealt with the entitlement to be in possession of the rental unit, and that all the other issues brought forward by the Tenant would be dismissed with leave to reapply. Pursuant to

rule of procedure #2.3, all the other claims of the Tenant are dismissed with leave to reapply as they are unrelated disputes to the main issue.

On one other issue the Landlords agreed they would keep the heat in the rental unit at 20 degrees Celsius; therefore, **I order the Landlords to ensure the heat in the rental unit is maintained at approximately 20 degrees Celsius, with the temperature not to go below 18 degrees Celsius.**

Issue to be Decided

Should the one month Notice to End Tenancy be cancelled?

Background and Evidence

On November 17, 2013, the Landlords posted a one month Notice to End Tenancy to the door of the rental unit, alleging that the Tenant had been repeatedly late paying rent, that the Tenant or a person permitted on the property by the Tenant had significantly interfered with or unreasonably disturbed another occupant or the Landlord, and that the Tenant or a person permitted on the property by the Tenant seriously jeopardized the health or safety or lawful right of another occupant or the Landlord (the "Notice"). The Tenant acknowledged service of the Notice on her and amended her Application on November 22, 2013, to include a request to cancel this Notice and added other issues as well.

The Landlord is alleging that the Tenant has been repeatedly late paying rent and utilities for at least the past three years of the tenancy.

Pursuant to section 46(6) of the Act that if a Landlord demands a utility payment and it is not paid for 30 days after the demand, the unpaid utilities may be treated as unpaid rent.

The Landlord has also made allegations regarding numerous noise disturbances at the rental unit which required police attendance and that the Tenant had shut off the heating gas to the rental unit when it was not necessary to do so. However, as described below it was unnecessary to examine the merits of these allegations and these remain unproven allegations before me.

As to the late payment of rent, the Landlord has submitted evidence and testified that the Tenant has been late paying the rent in February of 2013, and has been late paying

the utilities after being demanded to pay on 23 of the last 48 occasions that the utility payment were due.

The Landlords submitted evidence and testified that the rent was not paid on the first day of February 2013, and the Tenant was issued a 10 day Notice to End Tenancy for unpaid rent. The rent was eventually paid; however, rent was paid late.

The Landlords testified and submitted evidence that they made a demand for payment of an outstanding utility bill in March of 2013. They testified that this was paid on May 6, 2013.

The Landlords testified and submitted evidence that they made a demand for payment of the May 2013 utilities and this has not been paid.

The Landlord submitted and testified that they made a demand for September 2013 utilities payment on September 22, 2013, and these were not paid until November 3, 2013.

The Tenant testified that the February 2013 rent was paid late because the timing of her pay cheques had changed.

The Tenant agreed the May 2013 utilities are unpaid, because she withheld the utility payment for May as her new microwave oven stop working in the rental unit and she blames the electrical service in the rental unit for this. May utilities remain unpaid as of December 9, 2013, the date of this hearing.

The Tenant alleges that there have been problems with the electrical system in the rental unit for six or seven years, because she cannot plug in and use more than one or two appliances at the same time.

The Tenant testified during the hearing that she receives emails two or three times per month from the Landlords informing her of late payments for utilities and she blocked some of the emails from arriving to her because of this constant harassment.

Analysis

Based on the above, the evidence and the testimony, and on a balance of probabilities, I find the Tenant has been repeatedly late paying rent, and utilities after a 30 day demand has been made, on four occasions in the past 11 months. Under policy guideline 38, three instances of late payments are sufficient to end the tenancy.

For this reason I find the Notice is valid and should not be cancelled, and therefore, I dismiss the Application of the Tenant. Following my dismissal of the Tenant's Application, the Landlord orally requested an order of possession to have the Tenant vacate the rental unit. Under section 55 of the Act, I must grant that request.

Therefore, I grant and issue the Landlord an order of possession for the rental unit, effective **at 1:00 p.m. on December 31, 2013, which is the effective date of the Notice**. This order may be filed and enforced through the Supreme Court of British Columbia.

Conclusion

I find the Tenant has been repeatedly late paying rent and therefore, the one month Notice to End Tenancy is not cancelled and I dismiss the Application of the Tenant. It is unnecessary to examine the merits of the other allegations in the one month Notice to End Tenancy, as the tenancy is ending for this one reason.

The other relief sought in the Tenant's Application with regard to monetary compensation is dismissed with leave to reapply. Some of the other relief sought may be moot as this tenancy is ending; nevertheless, these are dismissed with leave to reapply as well.

Pursuant to section 55 of the Act, the Landlords are granted an order of possession, **effective at 1:00 p.m. December 31, 2013**. This order may be filed and enforced through the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: December 09, 2013

Residential Tenancy Branch

