



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OPC FF

Introduction

This hearing dealt with the tenants' application to cancel a notice to end tenancy and the landlord's application for an order of possession pursuant to the notice to end tenancy. The tenants and the landlord participated in the teleconference hearing.

The landlord submitted evidence suggesting that she was also seeking monetary compensation; however, the landlord did not include a monetary claim in her application. I did not amend the landlord's application to include her monetary claim, as the issue of whether or not the tenancy was ending took precedence.

At the outset of the hearing, each party confirmed that they had received the other party's evidence, with the exception of four photographs submitted by the tenants. The landlord stated that she did not receive those photographs. I informed the parties that I had received faxed photocopies of the photographs, which were mostly black, and that I would not admit or consider that evidence.

Neither party raised any further issues regarding service of the applications or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy began in April 2013. The tenants occupy the upper portion of a house, and the landlord resides in the basement suite.

On May 1, 2014 the landlord served the tenants a notice to end tenancy for cause. The notice indicated the following reasons for ending the tenancy:

- the tenants or guests of the tenants have
 - significantly interfered with or unreasonably disturbed the landlord;
 - seriously jeopardized the health or safety or lawful right of the landlord;
 - put the landlord's property at significant risk; and
- the tenants have not done required repairs of damage to the unit or site.

Landlord's Evidence

The landlord stated that since the beginning of the tenancy the tenants have had all-night parties. The landlord stated that in October 2013, the tenants had a party that went on until 6:00 a.m., and afterward the landlord discovered human urine in her garage.

The landlord stated that the tenants' dog has urinated and defecated all throughout the rental unit, which has caused damage to the carpeting. The landlord stated that the dog uses the entire back yard as its bathroom, and the tenants do not clean up after the dog. The dog also barks whenever anyone comes to the door, and the tenants are night people so their guests come late at night. The landlord stated that she has been woken up numerous times in the middle of the night when the dog began barking.

The landlord stated that there are cigarette butts everywhere in the garden, and they appear to not have been butted out but just flicked over the deck. The landlord stated that this poses a potential fire hazard to the vinyl deck.

The landlord stated that the male tenant repaired the deck but he did not do it properly, and now the deck has to be repaired or the wood underneath will rot.

In her evidence, the landlord referred to several other issues she has with the tenants, including noise that they make from dragging chairs across the floor and having their TV too loud; damage they have done to the landlord's plants; the tenants' use of the garage for storage; the position of the tenants' RV, which is preventing the landlord from removing invasive weeds; and the tenants' use of the landlord's items such as laundry soap and water filters.

Tenants' Response

The tenants stated that the only all-night party they had was in October 2013. The tenants stated that there was no urine in the garage; it was drippings from their turkey. The tenants stated that they have big families so they have a lot of guests, but they always let the landlord know when they are having people over.

The tenants acknowledged that their dog had some accidents in the house, but the tenants have since had the carpets shampooed.

The tenants stated that they did not know until four months after they moved in that their dog was barking nonstop. The tenants stated that they then began kennelling the dog during the day.

The tenants stated that they do not smoke, and they have planters filled with sand on the balcony for their guests who do smoke. The tenants stated that there was never any talk about parking in the garage.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the notice to end tenancy for cause is valid, on the ground that the tenants have unreasonably disturbed the landlord.

The tenants provided evidence that they only kennel their dog during the day. The tenants did not dispute that they have late-night guests and their dog barks whenever someone comes to the door. I accept the evidence of the landlord that she is frequently woken up late at night when the tenants' dog begins barking. The tenants were aware that the noise of their dog barking travelled into the landlord's suite, but they did not take measures to prevent the dog from barking at night.

As I have found that the notice to end tenancy is valid on the ground that the tenants unreasonably disturbed the landlord, it is not necessary for me to consider the other alleged causes.

The landlord is entitled to an order of possession. Because the notice was served on May 1, 2014, the effective date is automatically corrected to June 30, 2014. I therefore grant the landlord an order of possession effective June 30, 2014.

As the landlord's application was successful, she is entitled to recovery of the filing fee for the cost of her application.

Conclusion

The tenants' application is dismissed.

I grant the landlord an order of possession effective June 30, 2014. The tenants must be served with the order of possession. Should the tenants 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.

I further grant the landlord recovery of the \$50 filing fee.

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: June 27, 2014

Residential Tenancy Branch

