



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding West Hotel and 0750947 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNDC

Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause, to cancel a 10 day Notice to End Tenancy for unpaid rent and for a monetary award. The hearing was conducted by conference call. The tenant and the landlord's named representatives called in and participated in the hearing

Issue(s) to be Decided

Should the Notice to End Tenancy dated May 27, 2014 be cancelled?
Is the tenant entitled to a monetary award?

Background and Evidence

The rental unit is a room in the landlord's single room occupancy hotel in Vancouver. The Tenancy began in August, 2012. On May 27, 2014 the landlord served the tenant with a one month Notice to End Tenancy for cause in the presence of a Vancouver Police Officer. The tenant applied to dispute the Notice to End Tenancy on May 30, 2014. On June 2, 2014 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent. The tenant then amended his application to dispute the 10 day Notice as well and the Notice to End Tenancy for cause.

The landlord's representatives testified that the tenant assaulted Mr. Y.N, the landlord's representative on May 27, 2014 when the tenant served him with a summons to attend a Small Claims Court hearing at the rental property. Mr. Y.N. reported to the police that he had been assaulted by the tenant and he arranged for the police to be in attendance when he served the tenant with the Notice to End Tenancy for cause. The stated ground for the Notice to End Tenancy was that the tenant engaged in illegal activity that adversely affected the quiet enjoyment, safety or well being of the landlord. At the hearing the landlord's representative said that when the tenant served him with a

summons to attend a court hearing, the tenant pushed him in the chest with the papers in his hand and said: "You have been served." The landlord's representative said that this constituted an assault. The landlord's representative was not injured; he called the police and an officer attended and interviewed the parties. No charges were laid. The landlord did not offer any other evidence and there was no documentary evidence of information supplied by the landlord.

The tenant testified that he did not assault the landlord's representative when he served him with documents and the landlord's representative was overly dramatic in his description of the incident when he reported it to the police. He said that the police officers who escorted the landlord to serve the tenant with an eviction notice were unaware of the earlier event when the tenant served the landlord with a summons to attend a payment hearing.

The tenant referred to other decisions made by arbitrators under the *Residential Tenancy Act* with respect to this tenancy. In previous proceedings the tenant has obtained monetary orders payable by the landlord. The summons served to the landlord was a summons to attend a payment hearing with respect to the enforcement of a monetary order registered in the Small Claims Court. In addition to the monetary award sought to be enforced, the tenant has received other awards from the Residential Tenancy Branch and he was entitled to deduct amounts from his rent. The tenant deducted an amount from his June rent in accordance with an award granted to him by a decision authorizing a one-time deduction of \$150.00 from his rent.

Analysis

I find that there is no basis for the one month Notice to End Tenancy for cause dated May 27, 2014. I do not accept the testimony of the landlord's representative that an assault occurred. I accept and prefer the tenant's evidence with respect to the events of May 27th. I find that supposed assault that took place when the tenant served a document upon the landlord's representative was dramatized by the landlord's representative and amounted to a convenient excuse for the Notice given to the tenant because he has become a thorn in the side of the landlord due to his advocacy on behalf of other occupants and his previous successful applications to the Residential Tenancy Branch with respect to tenancy matters. The Notice to End Tenancy is cancelled and the tenancy will continue.

With respect to the 10 day Notice to End Tenancy, it too is devoid of merit. The tenant was entitled to make the deduction from his rent for the month of June. There has been no non-payment of rent for June and I order that the Notice be and is hereby cancelled.

Conclusion

I have no authority to assess administrative penalties and the tenant's request that I should do so is denied.

I do find that the Notices given by the landlord and the conduct of the landlord's representatives surrounding the giving of these Notices does constitute harassment of the tenant that has interfered with his quiet enjoyment of the rental unit. I find that the tenant is entitled to compensation for this harassment and loss of quiet enjoyment, for which I award him the sum of \$250.00 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims Court 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: August 07, 2014

Residential Tenancy Branch

