



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, LRE, LAT, OPC, FF

Introduction

This hearing dealt with cross applications. The landlord filed an application seeking an order of possession and to recover the filing fee. The tenant has filed an application seeking an order to have a One Month Notice to End Tenancy for Cause set aside, a monetary order for the money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, an order to have the landlord comply with the Act, regulation or tenancy agreement, an order to suspend or set conditions on the landlord's right to enter the rental unit and an order to allow the tenant to change the locks to the rental unit. The landlord participated in the conference call hearing but the tenant did not. The tenant served the landlord notice of this hearing and I am satisfied that they were aware of the date and time and the hearing proceeded and completed in their absence. The landlord gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, regulations or tenancy agreement?

Background and Evidence

The landlord gave the following undisputed testimony:

The tenancy began on or about March 1, 2014. Rent in the amount of \$555.00 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 \$275.00. The

landlord stated that the tenant has been problematic since April 2014. The landlord stated that the tenant has been given verbal and written warnings to correct her behaviour. The landlord stated that the tenant will play loud music at all times of the day and night.

The landlord stated that the tenant uses foul and threatening language towards the landlords' family, the other tenant in the home and people in the neighborhood. The landlord stated that they have received numerous complaints from neighbors both verbal and written about the subject tenant. The landlord stated that the neighbors have complained to the local municipal authorities. The landlord stated that the authorities have given the landlord a final warning about this tenant and if her behaviour continues the landlord will be issued a fine under the municipal "nuisance by-law". The landlord issued a One Month Notice to End Tenancy for Cause on June 30, 2014 with an effective date of July 31, 2014.

The landlord stated that the tenant had made threats to the landlord that has required the police to attend and suggest the landlord pursue criminal charges. The landlord stated that they are fearful of the tenant and do not wish to engage in a subsequent legal process. The landlord stated that the tenant has told them that she is going to move out on August 31, 2014. The landlord stated that if successful, they are content to be given an order of possession for that date as they do not want to aggravate or enrage the tenant any further.

Analysis

The tenant has filed an application but chose not to participate in this hearing. The tenant has submitted some documentary evidence however it was neither relevant to the tenants' application nor helpful. Based on the above I dismiss the tenants' application in its entirety.

When a landlord issues a notice under Section 47 they must provide evidence to support the basis for issuing the notice. In this case, the landlord issued the notice on

the grounds the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. Based on the testimony of the landlord and the documentation submitted, I am satisfied the landlord has provided sufficient evidence to have the tenancy come to an end. The notice issued on June 30, 2014 with an effective date of July 31, 2014 remains in full effect and force. 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. As per the landlords request the order of possession will take effect at 1:00 p.m. on August 31, 2014.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain \$50.00 from the security deposit in full satisfaction of the claim.

Conclusion

The landlord is granted an order of possession and may retain \$50.00 from the security deposit.

The tenants' application is dismissed in its entirety.

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 12, 2014

Residential Tenancy Branch

