



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Warrington PCI
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenants applied for an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause (the "Notice") and for recovery of the filing fee.

The named parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me and respond each to the other's evidence.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Have the tenants established an entitlement to an order cancelling the landlord's Notice and to recover the filing fee?

Background and Evidence

The tenants submitted that they began their tenancy at the residential property in July 2006, that the tenancy in this rental unit began February 15, 2007, and that current monthly rent is \$2528. The rental unit is in a multi-level, multi-unit apartment building.

Pursuant to the Rules, the landlord proceeded first in the hearing and testified in support of issuing the tenants a 1 Month Notice to End Tenancy for Cause, under section 47 of the Act. The Notice was dated June 17, 2014, listed an effective end of tenancy date of

July 31, 2014, and was served upon the tenants via regular mail on June 17, 2014. The tenants confirmed receiving the Notice via regular mail.

The causes listed on the Notice alleged the tenants or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord, in support of the Notice, submitted that during the course of this tenancy, there have been many noise complaints against these tenants and their son. Some incidents have included shouting, door slamming, use of profanity, and breaking glass, which resulted in the window to the front entry way being broken, according to the landlord. The landlord submitted further that they have attempted many times to work with the tenants to ensure the noise levels abate. The landlord submitted photos of the broken window.

The landlord submitted further that the tenants were issued a final warning letter on July 19, 2013, as the result of a domestic disturbance for which the police were called, as property was destroyed and other tenants' quiet enjoyment was disrupted. The landlord submitted a copy of the letter, along with a written complaint from another tenant, dated June 16, 2014.

According to the landlord, the Notice was issued as the result of noise complaints from other tenants received by the landlord regarding a loud disturbance by the tenants' 18 year old son on June 16, 2014. One complaint stated that the tenants' son pounded on the door repeatedly, threatened to kick in the door and used other threatening language, and that his loud statements were laced with unacceptable profane language.

The landlord submitted that 2 other sets of tenants have informed the landlord that they will be moving from the residential property if these tenants are not evicted.

Tenants' response-

In response, the tenant submitted that they do not doubt that other tenants may have been disturbed by their son, but that he was only upset because his vehicle had been vandalized and his \$800 skateboard stolen. The tenants submitted that their son has been reprimanded about his behaviour that night and it has not been repeated.

The tenants denied that the landlord has tried to work with them regarding their noise levels and that the female tenant tried to apologize to the resident manager about the incident of June 16, 2014, but was rebuffed.

The tenants alleged that they were being targeted by the current management due to their request for repairs, and that prior to the last 2 years, they have had no noise complaints against them.

The tenants submitted that the final warning letter of July 2013, and the latest incident of June 16, 2014, with their son, was a year apart, and that they have not been given recent warning letters to correct the behaviour.

The tenants submitted that these incident were isolated and few and far between.

The tenants' relevant documentary evidence included, but was not limited to, a chronological listing of events, email communication between the parties, and support letters from other tenants of the residential property.

Analysis

Upon consideration of both parties' documentary and oral evidence and on a balance of probabilities, I find that the Notice issued by the landlord to the tenants is valid, on the ground that the tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed other occupants.

The tenants themselves agreed that other occupants may have been disturbed on June 16, 2014, due to their son's behaviour, but blamed the disturbance on the fact their son was upset. In other words, the tenants did not deny that their son used loud, profane and threatening language, and I find a reasonable person would fear for their safety and security and would be unreasonably disturbed by such behaviour. The landlord is required to ensure that all tenants are given their right to quiet enjoyment.

Considering the totality of the evidence, including the tenants' own admission, I find that the landlord has substantiated the first cause listed on the Notice and I therefore dismiss the tenants' application requesting cancellation of the Notice, without leave to reapply.

As I have found that the Notice is valid on the ground that the tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed other occupants, it is not necessary for me to consider the other alleged cause.

As I have dismissed the tenants' application, I decline to award them recovery of the filing fee paid for this application.

Conclusion

For the reasons stated above, the tenants' application is dismissed, without leave to reapply.

As the landlord has made a request for vacant possession of the rental unit, pursuant to section 55 of the Act, I grant the landlord an order of possession for the rental unit effective 2 days after service of the order upon the tenants.

The order of possession is enclosed with the landlord's Decision. This order is a final, legally binding order, and may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court should the tenant fail to comply with the terms of the order. The tenants are advised that costs of such enforcement are subject to recovery from the tenants.

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: September 3, 2014

Residential Tenancy Branch

