



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET

Introduction:

This is the Landlord's application for an early end to the tenancy and an Order of Possession, pursuant to the provisions of Section 56 of the Act.

Both parties gave affirmed at the Hearing.

The parties advised that they have a Hearing scheduled for November 17, 2014, in which the Landlord is seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause, and the Tenant is seeking to cancel the Notice.

The Landlord's agent EM testified that she served the Tenant with the Notice of Hearing documents and copies of her documentary evidence, by registered mail, sent on October 3, 2014. She provided the Canada Post tracking number. The Tenant acknowledged receipt of the documents on October 9, 2014, by registered mail.

The Tenant provided late evidence to the Residential Tenancy Branch on October 20, 2014, at approximately 9:30 a.m. He testified that his agent served the Landlord with a copy of his documentary evidence at 8:00 p.m., October 20, 2014. EM stated that she did not have time to consider all of the Tenant's documentary evidence, which consisted of approximately 40 pages of the Tenant's written submissions, e-mails and other documents.

The Tenant asked that the matter be adjourned to November 17, 2014, to be heard with the parties' cross applications. EM objected to an adjournment. I asked the Tenant why he waited so long to provide the Landlord with his documentary evidence and he replied that "first of all, there was Thanksgiving", and then he had to work and could not serve the documents earlier. I asked the Tenant why his agent did not serve the Landlord before 8:00 p.m., when the Residential Tenancy Branch received the documents at 9:30 a.m. The Tenant stated that his agent had to work, too.

I advised the parties that I found it would be highly prejudicial to the Landlord to adjourn the matter because of the nature of the Landlord's application. I also advised the Tenant that I

found that he did not provide sufficient reason for not serving the Landlord with his documentary evidence sooner. Therefore, I did not consider the Tenant's documentary evidence and invited him to give oral testimony with respect to its contents.

Issue to be Determined:

Should the tenancy be ended early?

Background and Evidence:

Both parties provided a considerable amount of testimony at the Hearing, which lasted 1 hour, 40 minutes. I have only recorded the relevant evidence in this Decision.

The Landlord is seeking to end this tenancy early because it alleges that the Tenant has been "subletting" suites in the rental property. EM testified that the Tenant had three tenancy agreements with the Landlord and that the other two tenancies have ended. She stated that one tenancy ended by mutual consent and that the other tenancy ended on October 17, 2014, when the Landlord was successful in its application for an early end to tenancy.

There are two reasons that the Landlord seeks an early end to this tenancy. EM stated that the Tenant was treating all three units as "a hotel" or a bed and breakfast, which is contrary to the City's bylaws. She stated that there are "risks to the Landlord for liability" and that the Tenant's actions could affect the Landlord's insurance. EM stated that there have been no letters or fines from the City, and that she is not sure about whether or not the Landlord's insurance would be affected.

The second reason relates to the Tenant's guests. EM stated that one guest refused to identify himself to her and was "very rude". EM stated that when she asked the guest to identify himself, the guest turned it around and insisted on knowing who she was. She stated that she told him she was the Landlord's agent and the guest responded that the Tenant was his landlord and that he didn't have to give her his name. EM testified that the guest "snuck into the parkade, he was hiding and then ran away". EM submitted that there have been more than 30 strangers in and out of the three units and that other occupants in the rental property are concerned for their safety because they don't know who these people are. EM submitted that the Landlord has a right and a responsibility to other occupants to know who is living in the rental property.

EM submitted that these actions by the Tenant and his guests are so serious that the tenancy should be ended immediately and it would be unfair and unreasonable to wait for a one month Notice to End Tenancy to take effect.

The Tenant stated that the Landlord's agent CD was aware in February, 2014, that he was renting rooms to guests for short terms. He stated that he had signed three tenancy agreements with the Landlord and was financially responsible for all three apartments as

guarantor. The Tenant stated that everything was fine for about a year and that the Landlord's accusations are "outlandish".

The Tenant submitted that he has cancelled all arrangements for future guests and has taken down his listings on various web sites.

Analysis:

When a Landlord makes an application for an early end to tenancy, the Landlord has the burden of proving that:

1. there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk; and
2. that it would be unreasonable or unfair to the landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the Act to take effect.

In this case, I am not satisfied that the Landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. I am satisfied that there *may* be cause to end this tenancy pursuant to Section 47 of the Act; however, I do not find it is unfair or unreasonable for the Landlord to wait for a one month Notice to End Tenancy to take effect.

Conclusion:

I find that the Landlord has not met the grounds to end this tenancy early pursuant to Section 56 of the Act and I dismiss this application.

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: October 22, 2014

Residential Tenancy Branch

