



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Tsung Tsin (Hakka) Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNC

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause dated August 1, 2014. The tenant, the tenant's advocate, two agents for the landlord and an interpreter participated in the teleconference hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

If so, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on December 1, 2011. The tenant rents a room and shares a kitchen, bathroom and other common areas of the house with tenants in five other units.

In May 2014 the landlord served the tenant with a notice to end tenancy for cause. The tenant applied to cancel that notice, as well as for other orders including an order that the landlord allow the tenant full unrestricted use of the kitchen. In the decision pursuant to that application and hearing, the arbitrator noted as follows: "During the hearing the landlord informed me that he had withdrawn the notice to end tenancy, prior to the hearing." The arbitrator issued several orders, including an order that the landlord allow the tenant full unrestricted use of the kitchen.

On August 1, 2014, the landlord served the tenant with a new notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were that the tenant had (1) significantly interfered with or unreasonably disturbed another occupant or the landlord; and (2) seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Landlord's Evidence

The landlord stated that there has been no peace since the tenant moved in. There have been many confrontations between the tenant and other occupants in the common areas, and other occupants have made many complaints to the landlord. The complaints included the following:

- the tenant does not keep the shared kitchen and bathroom in good, clean condition, and often leaves water all over the bathroom floor and counter;
- the tenant stays in the shared bathroom too long, sometimes up to one hour;
- the tenant makes loud noises in the middle of the night and wakes up other occupants;
- when she is using the kitchen, the tenant occupies almost the whole kitchen, and she does not clean up after herself;
- the tenant has accused other occupants of stealing from her;
- the other occupants have complained that some of their stuff has gone missing; and
- when confronted about her behaviour, the tenant becomes very defensive and at times abusive, and she always lies and blames others.

The landlord stated that they are concerned that the tenant has a mental disability, and the occupants fear for their safety because they never know what the tenant is going to do.

The landlord and the building manager, who is also an occupant in the building, both gave testimony. The landlord stated that he was prepared to have all of the other occupants give testimony to verify the landlord's account of the tenant's behaviour that resulted in the issuance of the notice to end tenancy.

The landlord stated that they had served the tenant with the first notice to end tenancy as a warning. The landlord acknowledged that some of the occupants as well as non-occupants use a space in the building to play mah-jong, and after they play they customarily give the landlord a donation. However, the landlord stated, they do not play mah-jong in the kitchen, and only the mah-jong players who use the kitchen are other occupants, who only use the kitchen at those times to boil water.

In the hearing the landlord stated that if the notice to end tenancy is valid, they want the tenant out.

Tenant's Response

The tenant's position was that the landlord issued the notice to end tenancy dated August 1, 2014 as retaliation for the previous dispute resolution hearing. The tenant submitted that the landlord does not want the rights of the mah-jong players to be interfered with, as the landlord receives a financial benefit from them.

The tenant denied spending too much time in the bathroom, and stated that she has a right to access the bathroom. The tenant did not dispute that she makes complaints to the landlord, and in the previous hearing the arbitrator found that the landlord had given the tenant's rice cooker to one of the other occupants.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the notice to end tenancy is valid.

I accept the evidence of the landlord that at the time of issuing the second notice to end tenancy, the tenant was engaging in behaviour that significantly interfered with or unreasonably disturbed other occupants. The tenant did not deny that she did not clean up common areas, or that she became confrontational or even abusive with other occupants.

The landlord acknowledged that mah-jong games are played in the building and the landlord receives a financial benefit from this activity; however, the arbitrator's order that the landlord allow the tenant full unrestricted use of the kitchen does not appear to have had a negative impact on the mah-jong games and I therefore do not find that the issuance of the second notice to end tenancy was retaliation for that decision.

In the hearing the landlord stated that if the notice to end tenancy is valid, the landlord wants the tenant out. In order to give force and effect to my decision to uphold the notice to end tenancy and under authority of section 62 of the Act, I grant the landlord an order of possession. As there was no evidence before me that the tenant had not paid rent for October 2014, I find it appropriate to make the order effective October 31, 2014.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective October 31, 2014. 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.

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 8, 2014

Residential Tenancy Branch

