



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD: OPB, MNSD, MND, FF
TENANT: CNC, FF

Introduction

This matter dealt with application by both the Landlord and the Tenant.

The Tenant's application is to cancel a Notice to End Tenancy for Cause and to recover the filing fee.

The Landlord's application is to end the tenancy, for compensation for damage to the unit, site or property, to retain the Tenant's security deposit and to recover the filing fee.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on November 27, 2014. From the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on December 12, 2014. From the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act. The Tenant said he got a mail notice, but he has not pick his mail up so he does not have the Landlord's hearing package.

At the start of the hearing the Landlord said that they have fixed the damage involved in the dispute so they are withdrawing their monetary claim. The Landlord said they will proceed with their request for an Order of Possession as they want to end the tenancy.

Issues(s) to be Decided

Landlord	Is the Landlord entitled to and Order of Possession?
Tenant	Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on February 1, 2011 as a fixed term tenancy for one year and then continued on a month to month basis. Rent is \$995.80 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$450.00 on January 6, 2011.

The Landlord said they issued the 1 Month Notice for Cause because the Tenant's son and his girlfriend cut out and stole copper piping in the basement of the rental complex. The Landlord submitted surveillance photographs and a police report # to support their claim. The Landlord said the Tenant's son and girlfriend are charged with thief. The Landlord continued to say that there is a restraining order on the son and girlfriend to keep them out of the rental complex, but they have been seen inside. Consequently the Landlord said to protect their property they feel the Tenant has to be evicted so that his son and his girlfriend cannot gain enter to the building. The Landlord requested an Order of Possession effect December 31, 2014.

The Tenant said he is not denying what the Landlord said, but he did not know what was happening and he was surprised to hear that this has happened. The Tenant continued to say that his son and his girlfriend have been living with him so they do have access to the building complex through him. The Tenant said he is moving in June 2015 and he would appreciate if the Landlord could continue the tenancy until that time.

The Landlord said the risk of the son and girlfriend coming back and doing more damage is too high so she is sorry but they want to end the tenancy on December 31, 2014.

The Tenant said he understood and he had nothing else to say.

Analysis

Section 47 (1) (e) of the Act says: A landlord may end a tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property

As both parties agree the Tenant's son and girlfriend gained access to the rental complex as guests of the Tenant and the Tenant's son and girlfriend cause damage

to the copper piping in the rental complex and they have been charge with an illegal act for cutting and removing the copper piping; I find the Landlord has established grounds to end the tenancy. Consequently I award the Landlord an Order of Possession effective at 1:00 p.m. December 31, 2014.

As well since the Landlord has been successful in this matter I order the Landlord to retain \$50.00 of the Tenant's security deposit to recover the filing fee for this proceeding.

Further I find the Tenant has not established grounds to cancel the notice and I dismiss the Tenant's application without leave to reapply. I order the Tenant to bear the cost of the application fee which he has already paid.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective December 31, 2014 has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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: December 23, 2014

Residential Tenancy Branch

