



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause. The tenant, the tenant's advocate, a witness for the tenant, the landlord and a witness for the landlord all participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. The parties and their witnesses were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

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

On October 31, 2014 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated the reasons for ending the tenancy as follows:

- 1) the tenant has allowed an unreasonable number of occupants in the unit;
- 2) the tenant or a person permitted on the property by the tenant has:
 - a. significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - b. put the landlord's property at significant risk; and
- 3) the tenant has assigned or sublet the rental unit without the landlord's written consent.

Landlord's Evidence

The landlord stated that it came to his attention through his property manager that the tenant was allowing guests and their dog stay on the property. The landlord stated that one of the two guests was a former tenant whom the landlord had evicted and whom he did not want back on the property. The guests had parked their travel trailer in the driveway, and were allowing their dog, a pit bull, into the rental unit. On October 23, 2014 the property manager served the tenant with a letter, informing the tenant that while the tenant was permitted to have guests, she was not permitted to allow other occupants, or their dog. The tenant was advised to have these persons, their dog and their trailer immediately removed from the property.

The property manager submitted a written statement indicating that during the next week, she received several complaints from other tenants about the noise, the trailer, the extra occupants and the dog. The property manager indicated that the trailer was removed on October 31, 2014 but it appeared that the guests and their dog were still living in the suite.

The landlord's witness, KH, is another tenant on the rental property. KH testified that she witnessed people living in a trailer in the driveway for almost three weeks. KH stated that she witnessed the pit bull in the tenant's rental unit when she went to knock on the door and the dog tried to come out, and she saw and heard the dog in the unit several times. KH also testified that she saw the guests smoking pot outside the house. KH testified that the tenant told her that there was no proof that the guests were living there because they had another address and they parked their truck elsewhere.

The landlord submitted three complaint letters from KH, two dated October 14, 2014 and one dated October 17, 2014, regarding the tenant's guests. The landlord also submitted a written statement from one of the other tenants in the building, NP, who indicated that the tenant's guests were smoking weed outside every day. Additionally, the landlord submitted copies of text messages from KH and NP. In one text message, sent November 4, 2014, KH informed the property manager that "the whole crew" was "living downstairs."

The landlord stated that having the trailer on the property was a liability for his house insurance.

In the hearing the landlord requested an order of possession effective December 31, 2014.

Tenant's Response

The tenant stated that on October 14, 2014 her guests were just passing through. The tenant stated that her guests started their visit on October 21, 2014, and they brought their trailer to stay in as well as for their dog. The tenant denied that the dog was ever in her rental unit. The tenant stated that she tried to talk to the property manager, but she would not cooperate.

The tenant's witness, MR, was one of the two guests. MR stated that the tenant asked MR and his partner to visit, and they were there for maybe two weeks, but he was not sure of the dates. Later in the hearing, after conferring with his partner, MR stated that they were visiting from maybe the 16th or 17th of October, or the 20th, until he received a text from the landlord on October 30th, and they were out of there on the 30th. MR stated that they stayed in the trailer with their dog, and the dog was never outside, always in the trailer. MR also stated that his dog is not hostile at all. MR stated that the travel trailer is powered by solar power and propane, and while on the rental property he had five propane tanks.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the notice to end tenancy is valid, on the basis that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord.

I find that the tenant was attempting to deceive the landlord into believing that her guests had left, by having them remove the trailer from the property and park elsewhere. I therefore find that the tenant's testimony lacked credibility. The tenant's witness provided unclear and contradictory evidence regarding how long he stayed on the property. I also find it unlikely that the dog remained in the trailer for their entire stay and was not once let out. Neither the tenant nor her witness denied smoking pot on the property. I accept the testimony of the landlord and his witness as credible.

I find that the tenant's guests arrived on October 14, 2014 and were still on the property on November 4, 2014, after the landlord had served the tenant with the notice to end tenancy. I find that the tenant willfully interfered with the landlord's business by allowing a guest unwanted by the landlord, as well as the guest's partner, dog and travel trailer on the property. I find that the trailer's presence on the property posed a risk to the landlord, at the very least risking the landlord's insurance for the property. I accept the

landlord's evidence that the tenant and her guests unreasonably disturbed the other tenants with noise, smoking pot, and the presence of their pit bull on the property.

I therefore grant the landlord an order of possession.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective December 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: December 11, 2014

Residential Tenancy Branch

