



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy. The tenant and the landlord 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. Both parties 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

The tenancy began on June 15, 2014. The tenant occupies a suite in the lower part of the landlord's house, with the landlord residing in the upper part of the house.

On December 15, 2014 the landlord served the tenant with a notice to end tenancy for cause. The notice indicates that the reasons for ending the tenancy are: (1) the tenant significantly interfered with or unreasonably disturbed the landlord; and (2) the tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of the landlord.

Landlord's Evidence

The landlord stated that since the beginning of the tenancy the tenant has been playing very loud music that constantly disturbs the landlord and her family. The landlord stated that sometimes the bass is so high that the walls vibrate. The landlord stated that on one occasion her daughter was trying to communicate with someone via skype and was having difficulty doing so because the tenant's music was so loud. The landlord stated that she called the tenant at least 10 times to ask her to turn the music down, but the tenant only answered approximately three of those calls. The landlord stated that when the tenant received the calls she said she was not at home, but then the music would be turned down.

The landlord stated that on December 5, 2014 she served the tenant with a notice to vacate and as a result the tenant's mother called the landlord. The landlord stated that the tenant's mother was extremely upset about the eviction notice and began swearing at the landlord and making threats to physically harm the landlord. The landlord stated that she had an anxiety attack and called the police regarding the threat. The landlord stated that she fears for her safety and continues to have anxiety attacks.

During the hearing the landlord orally requested an order of possession effective January 31, 2015.

Tenant's Response

The tenant stated that she believes that there is not sufficient soundproofing between the rental unit and the rest of the house. The tenant stated that she has received calls from the landlord regarding loud music at times when she was not at home. The tenant also stated that she never plays music in the morning, but the landlord once called her to complain at 8:00 a.m.

The tenant stated that on December 5, 2014 she was listening to music while she was showering, like she normally does, when the landlord pounded on the door and confronted the tenant about the noise. The tenant stated that the landlord gave the tenant a notice to end tenancy, and then the tenant went to her mother's house and her mother called the landlord to try to defuse the situation. The tenant stated that she was there with her mother when her mother allegedly made threats to the landlord, and no threats were made.

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 landlord's evidence as credible that the tenant repeatedly played loud music that unreasonably disturbed the landlord. The tenant stated that she "normally" plays music while she is in the shower, and I find it likely that the tenant would have had the volume of her music set high enough that she could hear it over the sound of the shower.

Because I have found that the tenant unreasonably disturbed the landlord, it is not necessary for me to consider the second alleged cause for ending the tenancy.

In the hearing the landlord orally requested an order of possession. As I have found that the notice is valid and I dismiss the tenant's application, I accordingly grant the landlord an order of possession.

As the tenant's application was not successful she is not entitled to recovery of the filing fee for the cost of her application.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective January 31, 2015. 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: January 19, 2015

Residential Tenancy Branch

