



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Meicor Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that on January 28, the tenants were served with a one month notice to end tenancy for cause (the "Notice"). The Notice alleges that the tenants have significantly interfered with or unreasonably disturbed other occupants.

The landlord testified that in late September 2014, police were called to the rental unit as a result of a domestic disturbance. Other occupants of the residential property complained to the landlord that the noise, abusive language and violence involved in the altercation was extremely disturbing and frightening. The tenant's daughter's ex-boyfriend was arrested on this occasion. As this was not the first time domestic disturbances had caused other occupants to complain, the landlord issued a warning letter to the tenants advising that further disturbances would not be tolerated. The tenants testified that they obtained a peace bond against the boyfriend and believed he would not come back to the unit.

When the daughter was again staying with the tenants in January, the boyfriend somehow managed to gain access to the tenants' second floor balcony. The tenants opened the sliding door and allowed him to enter the unit before telephoning the police. Before the police arrived, the boyfriend attacked the daughter and one of the tenants. He was again arrested.

The tenants acknowledged that the disturbance was significant, but argued that they did not have control over the boyfriend and that he came to their house when the daughter was visiting. They stated that they tried not to have the daughter in the house since the boyfriend seemed determined to contact her, but as a result of a recent medical event, they allowed her to stay with them. They stated that the boyfriend was now incarcerated and awaiting trial and assured the landlord that he would not be at the unit again.

The landlord testified that many occupants have complained about the noise and had concerns about the violence taking place and stated that when she spoke with the tenants after the last serious altercation in September, the tenants had assured her that the boyfriend would not be returning to the property. The landlord had no confidence that the disturbances would cease. The landlord provided copies of complaint letters from other tenants.

The tenants argued that they had spoken with other tenants in the building and said that most tenants supported them and were not disturbed by anything that was happening in the rental unit. The tenants did not submit statements from these individuals although they read one letter purportedly from another tenant.

Analysis

The landlord bears the burden of proving that there are grounds to end the tenancy. Although the landlord acknowledged that it is not the tenants themselves who are causing disturbances but their guests, the tenants are responsible for the actions of everyone they permit to enter their rental unit. I have sympathy for the tenants that they did not invite the boyfriend to the rental unit, but after the events of September 2014 and knowing the boyfriend's propensity toward violence, they chose to open the sliding door to their balcony and allow him to enter the unit in January. The tenants were well aware of the danger he posed and that this would jeopardize their tenancy, but chose to allow him to enter anyway.

I find that when the tenants allowed the boyfriend to enter their unit, they became responsible for any disturbance he caused. I find that the disturbance in January was sufficiently severe that it gives the landlord grounds to end the tenancy as I find that the disturbance was unreasonable. I therefore decline to set aside the Notice.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenants must be served with the order of possession.

Should the tenants 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.

I have made the order effective April 30, 2015 as the hearing on this matter was scheduled more than one month after the date the tenants applied to dispute the Notice and they will require time to move.

Conclusion

The claim is dismissed and the landlord is granted an order of possession effective April 30, 2015.

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: March 12, 2015

Residential Tenancy Branch

