



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, PSF, AS, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause and for other relief. The hearing was conducted by conference call. The hearing was scheduled to commence at 9:00 A.M. The landlord and his son called in at the appointed time. The tenant called in 10 minutes late. She attended together with the named person, C.W, who made some representations on the tenant's behalf. The tenant said that she had retained an advocate, but her advocate was not available to represent her at the hearing. The tenant requested that the hearing be rescheduled. The tenant said that she was not capable of dealing with paperwork and said that she needed an advocate's assistance to ensure that she was properly represented. The tenant's friend made similar remarks on the tenant's behalf and she said that this hearing was only the beginning of the process.

Preliminary decision

This was the tenant's application to cancel a one month Notice to End Tenancy. She filed the application on August 18, 2015. The tenant was capable of submitting and serving her application for dispute resolution. She did not submit any additional documents in support of her application and she has not provided any documents or confirmation from an advocate in support of her request for an adjournment despite having had more than two months to do so. She has not provided any medical or other documentary evidence to show that she is not capable of representing herself at this hearing. I found that further delay would prejudice the landlord and I denied the tenant's request for an adjournment. I proceeded to hear the landlord's written and oral testimony as to the grounds for seeking to end the tenancy and to obtain an order for possession. The tenant participated in the hearing and provided her own testimony in response to the landlord's evidence.

Issue(s) to be Decided

Should the one month Notice to End Tenancy for cause dated August 9, 2015 be cancelled?

Background and Evidence

The rental unit is a house on rural property in Abbotsford. The landlord lives on an adjacent property. The landlord has a shared driveway with the rental property and the landlord leases the farmland around the rental unit to another tenant for raspberry production. The tenancy began in 2008. The monthly rent is \$1,200.00.

The landlord served the tenant with a one month Notice to End Tenancy for cause dated August 9, 2015 by handing a copy to an adult male who occupies the rental unit with the tenant. The notice said that the tenant was required to move out of the rental unit by September 10, 2015, although the earliest date that the Notice to End Tenancy could be effective was September 30, 2015. There were several reasons given for seeking to end the tenancy, namely: that the tenant is repeatedly late paying rent, that the tenant has allowed an unreasonable number of occupants in the unit, that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that the tenant has engaged in illegal activity that has affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord submitted documentary evidence and photographs as evidence to establish the grounds for ending the tenancy. The landlord and his son testified that the house was originally rented to the tenant, her boyfriend and the boyfriend's brother, but for the past year the tenant has been the sole tenant, but she has had numerous other people move in and out of the rental unit without any notice to the landlord and without the approval of the landlord. The tenant has had people living on the property in tents and at one time in a motor home parked on the property. The rental property has a detached shop. The landlord said that the tenant has sublet the shop to a stranger, who has his own key to the shop and comes and goes from the property by motorcycle.

The landlord testified that the tenant operates a garbage removal business out of the rental property. She picks up appliances and scrap metal and stores them on the rental property. The tenant is constantly operating yard sales on the rental property. She keeps recycled goods and garbage stored all over the property. There are large appliances, tires, toys gym equipment, doors, mattresses, dozens of bicycles and lawn mowers. The tenant has erected tents on the property to store items. The landlord provided copies of the tenant's business cards advertising her appliance and scrap

metal pick up and clean up business. The landlord received a letter from the City of Abbotsford on September 10, 2015. The inspector stated in the letter to the landlord that he inspected the rental property on August 18, 2015. He said in the letter that:

I observed that it is in an untidy condition due to excess household appliances, and the accumulation of filth, rubbish and discarded materials on the property.

The inspector requested that the property be cleaned up and all appliances and rubbish be removed by September 24, 2015. The landlord submitted photographs of the rental property taken on October 18, 2015. The photographs showed that more than a half-dozen mattresses were stacked up outside the rental unit. The yard was full of old furniture and sofas. There are several tents constructed out of plastic tarpaulins used to store goods. Old clothing was displayed hanging in cabinets outside in the yard. There were appliances and a hot water heater in the driveway and unidentifiable trash and rubbish was piled outside the house.

The landlord testified that the tenant removed the natural gas hot water heater from the house and replaced it with an electric heater. The natural gas hook up has been removed. The landlord said that the tenant sold his hot water heater. The tenant has also enclosed the front deck area of the house with a crude plywood construction and is using it for floor to ceiling storage.

The landlord testified that the tenant has used part of the property leased for raspberry cultivation as her circular driveway and she has knocked down poles and caused damage driving over the area. The landlord and family have had flat tires in their vehicles from broken glass and nails left in the shared driveway and parking areas by the tenant.

The tenant keeps a large dog unleashed on the property. It frightens the landlord, his family and their guests. The landlord testified that there is a constant parade of visitors coming to and from the property at all hours. The landlord testified that the situation is intolerable and the tenancy must end immediately. He requested an order for possession. The landlord also said that the tenant is frequently late paying rent. She has paid only \$500.00 on account of the monthly rent for October. The landlord accepted the \$500.00 payment for use and occupancy only. The landlord said the tenant insisted that he sign a shelter information form from the Ministry of Social Development if he wanted to receive the rest of the rent for October. The form was in the name of a stranger who is unknown to the landlord and he refused to sign the form.

The tenant testified that there is an electrical supply problem at the rental unit and a problem with the septic system. She claimed that the landlord has not fixed these problems. The tenant submitted no documentary evidence to show that she had ever requested any repairs during the tenancy. The tenant said that the property was now cleaned up. She said that she has a dog and said there was nothing to prohibit her from having a dog. The tenant said that she has friends and relatives who visit her. And she has had tents pitched in the yard, but only in the summer.

The landlord responded to the tenant's testimony; he said that nothing has been cleaned up and the landlord's pictures still are an accurate depiction of the condition of the rental property. He said that the tenant has damaged the electrical system and overloaded it by disconnecting natural gas appliances and replacing them with electrical units.

Analysis

I accept the landlord's testimony that the tenant has been operating an unauthorized junk business out of the rental property. I accept that the photographs accurately depict the current condition of the rental property. I have no hesitation in concluding that the tenant has significantly interfered with and unreasonably disturbed other occupants, including the landlord and his family by her unreasonable use of the rental property.

I find that the landlord has established that there are ample grounds to uphold the Notice to End Tenancy for cause and I dismiss the tenant's application to cancel the Notice to End Tenancy without leave to reapply.

Section 55 of the *Residential Tenancy Act* provides as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenant's application to dispute the landlord's Notice to End Tenancy. The Notice to End Tenancy required the tenant to move by September 10, 2015. The earliest date that the Notice to End Tenancy could be effective was September 30, 2015 and pursuant to section 53 of the *Residential Tenancy Act* the Notice is deemed to be corrected to that date. The landlord made an oral request for an order of possession at the hearing. Pursuant to section 55 I grant the landlord an order for possession effective two days after service upon the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

The tenant applied for a repair order. She has not provided sufficient evidence to show that repairs are required, or to show that she has ever made a written request for repairs. The tenancy has now ended and there is no basis for a repair order. The tenant's application is dismissed without leave to reapply.

Conclusion

The tenant's application has been dismissed. The landlord has been granted an order for possession.

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 29, 2015

Residential Tenancy Branch

