



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The Application for Dispute Resolution filed by the tenant seeks an order to cancel a one month Notice to End Tenancy dated September 23, 2015.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on September 23, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord carries on business on September 24, 2015.

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated September 23, 2015?

Background and Evidence

The tenancy began on February 1, 2015. The tenancy agreement provided that the tenant(s) would pay rent of \$630 per month payable in advance on the last Wednesday of the previous month.

Grounds for Termination:

The Notice to End Tenancy relies on section 47(1)(d)(e) and (k) of the Residential Tenancy Act. Those sections provide as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

(e) 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,
- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(k) the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

The landlord testified as follows:

- The tenant is a drug addict and the landlord has a "0" tolerance to drug use.
- The Fire Marshall has inspected the rental unit and discovered the tenant dismantled the smoke detector and his use of extension cords creates a fire hazard.
- The tenant has bed bugs in the rental unit. The pest control company refuses to treat his room because of the clutter and the refusal of the tenant to clean the clutter.
- The tenant has a large stereo and he plays music loudly disturbing others.
- The Fire Department and Pest Control company have given verbal warnings but have not put the warnings in writing.

The tenant disputes the evidence of the landlord and testified as follows:

- He does not have bedbugs
- The fire alarm was sensitive and he re-assembled it immediately upon being told by the landlord to do so. The extension cord situation was immediately resolved.
- He does not have a large stereo. He has a clock radio only.

- He is not a drug addict. Almost of the residents in the rental property are on drugs. He admitted smoking marijuana for health reasons.
- A previous hearing held in July covered most of these issues.

Analysis:

The landlord has the burden of proof to present evidence to establish sufficient cause to end the tenancy on a balance of probabilities. The landlord failed to provide evidence from the Fire Marshalls Office, the pest control company, other occupants etc. The only evidence presented was the oral testimony of the landlord. The tenant denied the allegations.

After carefully considering the disputed evidence I determined the landlord failed to present evidence to establish sufficient cause to end the tenancy. The landlord failed to produce documentary evidence from the Fire Marshall's office and the pest control company to establish that the tenant has seriously jeopardized the health and safety of the landlord or other occupants in the rental property or put the landlord's property at significant risk. The tenant testified that he re-assembled the fire detector and resolved the extension cord problem when advised of the problem. There is insufficient evidence that I can determine there is a bedbug problem in the tenant's rental unit. The landlord failed to prove the tenant engaged in an illegal activity. The landlord failed to prove the rental unit must be vacated to comply with a government order.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has failed to establish sufficient cause to end the tenancy. As a result I ordered that the Notice to End Tenancy dated September 23, 2015 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

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: November 25, 2015

Residential Tenancy Branch

