



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT, AAT, LAT

Introduction

This hearing was scheduled to hear the tenant's application for an Order of Possession; an Order to allow the tenant access to the rental unit; and, authorization to change the locks to the rental unit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Of note is that I was not provided any documentary evidence for this proceeding by either party. Accordingly, this decision was based upon the verbal submissions of both parties.

Issue(s) to be Decided

Is there a basis to grant the tenant the remedies he is seeking?

Background and Evidence

It was undisputed that the tenant has been residing in the rental unit for approximately two years and is currently required to pay rent of \$700.00 on the first day of every month. The rental unit is described as a former hotel suite that is provided to tenants by the City under a supportive housing operating agreement with BC Housing. However, I also heard that the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause that the tenant disputed and that matter is set for hearing on February 1, 2016 with another Arbitrator.

It was undisputed that the fire department issued a "Do Not Occupy" notice (herein referred to as the DNO Notice) with respect to the rental unit. I heard from the landlord that the reason the DNO Notice was issued is because of extreme hoarding. The DNO Notice permits the tenant to have access to the rental unit for 8 hours per day. The

purpose of the access is to facilitate the removal of possessions from the unit so that occupation of the unit may resume. The landlord stated that the landlord is liable to comply with the DNO Notice and that fines may be imposed where there is non-compliance.

It was undisputed that the rental unit is accessed using an electronic access card. By way of programming the access card, the landlord has been providing the tenant access to the unit between the hours of 7:00 a.m. and 5:00 p.m. so that he may remove possessions from the rental unit. The access card needs to be "refreshed" every morning in order to open the door to the rental unit. To do so the tenant must approach the front desk in the lobby area so that the landlord's staff person may "refresh" the card. The tenant does not take issue with this current arrangement. Rather, the tenant's concern is that the landlord will stop providing this access since that occurred between the dates of December 9, 2015 and January 12, 2015.

The landlord acknowledged that access was denied to the tenant in December 2015 and January 2016 because he was not using the time in the rental unit to remove possessions. However, so as to avoid a dispute as to whether the landlord has that right the landlord was agreeable to ensuring the tenant continues to receive access between the hours of 7:00 a.m. and 5:00 p.m. every day, as is currently provided. The tenant appeared to be satisfied with this outcome.

Analysis

As the parties were informed during the hearing, I decline to take any jurisdiction or authority to over-turn or vary the Do Not Occupy notice issued by the fire department and it remains in effect.

Having heard the tenant's possessions are in the rental unit and the tenant is currently provided access to the rental unit in compliance with the Do Not Occupy notice I am satisfied the tenant has possession of the unit he entitled to and I do not provide the tenant with an Order of Possession to the tenant.

I am also of the view that the current arrangement to permit the tenant access to the rental unit between the hours of 7:00 a.m. and 5:00 p.m. is satisfactory to both parties and gives the tenant access to the unit in compliance with the Do Not Occupy notice. Therefore, I do not authorize the tenant to change the locks to the rental unit. However, having heard there was a period of time when the landlord provided the tenant less than 8 hours of access to the rental unit and given the landlord's agreement to ensure that the current arrangement to permit the tenant 8 hours of access continues,

I do grant the tenant's request for an Order to allow him access to the rental unit. Accordingly, I issue the following Order:

ORDER

The landlord must permit the tenant access to the rental unit between the hours of 7:00 a.m. and 5:00 p.m. every day.

This Order shall remain in effect until such time the tenancy is determined to be at an end or the Do Not Occupy notice is removed or changed by the proper authority, whichever occurs first.

Conclusion

By way of this decision I have issued an Order to the landlord with respect to allowing the tenant access to the rental unit.

The tenant's request for an Order of Possession and authorization to change locks has been denied.

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 28, 2016

Residential Tenancy Branch

