



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, AS, RP, 0

Introduction

On August 24, 2016, and September 9 2016, the Tenant submitted Applications for Dispute Resolution asking that a 1 Month Notice to End Tenancy for Cause (“the 1 Month Notice”) be cancelled; requesting to be allowed to sublet or assign the tenancy; and requesting that the Landlord make repairs to the rental unit.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The 1 Month Notice To End Tenancy For Cause issued by the Landlord includes the reason that the Tenant has assigned or sublet the rental unit without the Landlord's written consent. The Tenant's Application for Dispute Resolution includes a request to be allowed to sublet or assign the tenancy. Both parties confirmed in the hearing that the issue for them concerns a co-tenant situation and not a sublet or assignment of the tenancy. An assignment or sublet of a tenancy requires that the tenancy be a fixed term tenancy, and requires that the original Tenant to move out of the rental unit. The Tenant is seeking to be permitted to have a co-tenant. The Tenant's request to be permitted to assign or sublet the rental unit is dismissed.

Issues to be Decided

- Does the Landlord have cause to end the tenancy?
- Is the Landlord entitled to an order of possession?
- Is the Landlord responsible to make repairs to the rental unit?

Background and Evidence

The parties agreed that the tenancy began on August 2, 2014, as a month to month tenancy. Rent in the amount of \$978.00 is payable on the first of each month.

The Landlord testified that on July 13, 2016, she became aware that the Tenant had an unauthorized person living with him. The Landlord met with the Tenant on July 21, 2016, to discuss the matter and gave the Tenant a breach letter. The Landlord testified that the Tenant is not allowed to have a roommate without the Landlord's knowledge and consent. The Landlord testified that she gave the Tenant until July 29, 2016, to have the unauthorized person move out, or the Tenant could find another place to live.

The Landlord testified that on July 30, 2016, the Tenant contacted her and stated that there was a problem at the rental property that required the police to attend. The police attended the rental unit due to a report that the Tenant had unwanted persons in the house who were partying and damaging the property by putting holes in the walls. The Police attended and escorted two people from the property.

The Landlord testified that the unauthorized person S. C. moved out on August 1, 2016.

On September 3, 2016, the Landlord issued the Tenant a 1 Month Notice To End Tenancy For Cause. The reasons for ending the tenancy within the Notice are:

- Tenant or a person permitted on the property by the Tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the Landlord
 - Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord
 - Put the Landlord's property at significant risk
- Tenant has caused extraordinary damage to the unit/site property /park
- Tenant has assigned or sublet the rental unit/ site without the Landlord's written consent.

The Tenant disputed the 1 Month Notice on September 9, 2016, within the required timeframe.

On September 15, 2016, the Landlord attended the rental property with the Tenant's permission to inspect the damage done to the unit and to have a restoration person inspect for reported mould. The Landlord testified that upon entering the unit she discovered that the unauthorized Tenant S. C. had moved back into the rental unit. The Landlord testified that the bedroom was filled with the unauthorized Tenant's belongings.

The Landlord testified that she returned later that day with another person to inspect for mould, but the unauthorized Tenant refused to let her enter the unit and called the Police.

The Landlord stated that she previously allowed the Tenant to have a roommate, when the Tenant had asked permission. However, in the case of S.C. the Tenant never asked permission. The Landlord testified that S.C. is not a suitable Tenant because of issues with suitable references, credit issues, and criminal record checks.

In response, the Tenant testified that he did not ask permission from the Landlord before allowing S.C. to move into the rental unit. He testified that he tried to contact the Landlord but she was not at home. The Tenant testified that he needs a roommate.

The Tenant testified that he received the breach letter from the Landlord asking that S.C. move out of the unit. The Tenant testified that he kicked S.C. out of the rental unit as requested by the Landlord, but S.C. came back because she had no place to stay. The Tenant stated that he let S.C. move back in.

The Tenant testified that he contacted the Landlord to have unwanted people removed from the rental unit. He testified that S.C. had let the people into the rental unit.

The Tenant has also applied for the Landlord to make repairs to the unit. The Tenant testified that there is a mould issue in the basement and bathroom of the rental unit. He testified that he first noticed the mould in 2014, and has not personally taken any steps to deal with it. He testified that the Landlord was told about the mould verbally back in 2014, but he did not notify the Landlord in writing about the mould issue. The Tenant testified that his requests for repairs to the unit are regarding the mould and he also stated that the back fence is rotten.

In response, the Landlord stated the first time she heard about a mould issue was when the Tenant served her with the Notice of Hearing for dispute resolution. She testified that the Tenant never informed her about mould. The Landlord stated that the Tenant's failure to mention the mould for such a long time has put her property at significant risk.

The Landlord testified that the person from the restoration company advised her that the only mould found is in the basement on some drywall in the storage area. The Landlord testified the type of mould is unknown and it is the size of an 8 1/2 inch sheet of paper.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant allowed S.C. an unauthorized person to move into the rental unit knowing that the Landlord expressly forbid S.C. from living there. The unauthorized Tenant S.C. invited other people into the rental unit to party and extraordinary damage was caused to the unit with holes in the walls. The police were required to remove the unwanted guests. I find that the Tenant is responsible for the actions of S.C. including the actions of the people S.C. invited into the rental unit. I find the Tenant is responsible for the damage.

I also find that the unauthorized Tenant did not allow the Landlord access to the rental unit to investigate and inspect the mould issue. The unauthorized tenant called the Police on the Landlord. The Landlord had the permission from the Tenant to enter and the unauthorized Tenant had no right to prevent the Landlord from entering the unit for this legitimate purpose. I find that the Tenant is responsible for the actions of the unauthorized Tenant S.C. who significantly interfered with the Landlord.

I find that the Landlord has cause to end the tenancy for extraordinary damage to the unit and for significant interference of the Landlord.

I dismiss the Tenant's Application to cancel the 1 Month Notice To End Tenancy For Cause dated September 3, 2016. Since the Tenancy is ending for these reasons, there is no need to consider the other issues within the Notice.

Under section 55 of the Act, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an

order of possession. I find that the Landlord's 1 Month Notice complies with the requirements for form and content.

Since the effective date of the 1 Month Notice automatically corrects to be October 31, 2016, and that date has already passed, I find that the Landlord is entitled to an order of possession effective two (2) days, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Since the tenancy is ending, the Tenant request that the Landlord make repairs to the rental unit is dismissed.

Conclusion

I grant the Landlord an order of possession effective two (2) days after service on the Tenant. 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: November 2, 2016

Residential Tenancy Branch