



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEKINOW NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, ATT, LRE, OPT, PSF, RP, RPP, RR

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Cause, allow the Tenant access to the unit, to set conditions on the Landlord's right of entry to the unit, for an order of possession for the Tenant, for the Landlord to provide services and facilities to the Tenant, for make repairs to the unit site or property, for the return of personal property and for a rent reduction.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery to the Landlord's office on August 24, 2017. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

Preliminary matters

At the start of the Hearing the Arbitrator informed the parties that the Tenant's application has a number of separate and unrelated issues and under section 2.3 of the Residential Tenancy Branch Rules of Procedure (Dismissing unrelated disputes in a single application) an Arbitrator may dismiss unrelated disputes within an application. The Tenants' applications to cancel the 1 Month Notice to End Tenancy for Cause is the issue that will be heard today and all the other issues are dismissed with leave to reapply.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on April 1, 2015 as a one year fixed term tenancy and then continued on a month to month basis. Rent is \$700.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$500.00 at the start of the tenancy. The parties agreed a move in condition inspection was completed at the start of the tenancy. The Landlord said the tenancy agreement states who are the authorized tenant/occupants and the rules about guests.

The Landlord said they served a 1 Month Notice to End Tenancy for Cause dated August 17, 2017 by posting it on the door of the Tenant's rental unit on August 17, 2017. The Landlord continued to say the reason on the Notice to End Tenancy is the Tenant has had an unreasonable number of occupants in the rental unit. The Landlord said they have been working with the Tenant on this issue for approximately 1.5 years and have issued 4 warning letters and 2 Notices to End Tenancy prior to issuing this Notice to End Tenancy. The Landlord said the issue is that the Tenant has family or friends staying in the rental unit without authorizations. The Landlord said the tenancy agreement allows for guests to stay up to two weeks but Tenant's guest stay for months. The Landlord continued to say the Tenant's father and his partner and dog have lived in the unit off and on for possible one and half years. Further a relative parked his motorhome on the Tenant's driveway for approximately 2 months. The Landlord said these were unauthorized occupants and the Tenant was told to correct the situation in the warning letters of March 4, 2015, December 22, 2016, January 10, 2017 and August 4, 2017. The Landlord provided copies of the warning letters in the Landlord's evidence package.

Further the Landlord said they have issued two previous 1 Month Notices to End the Tenancy for Cause for the same reason of an unreasonable number of unauthorized occupants. The first Notice to End Tenancy was issued November 24, 2015 and the second was issued to the Tenant on March 29, 2017. The Landlord included copy of this Notice and said they did not act on them because they operate a subsidized house society and they try to work with the tenants to overcome difficulties. The Landlord continued to say the Tenant is not working with them and now they have decided to end the tenancy if they can. The Landlord said they want to end the tenancy and are requesting an Order of Possession.

The Tenant's Advocate said the Tenant accepts that she has had unauthorized family members stay at the rental unit off and on but she would like to have another chance. The Tenant said her father and his partner and dog stayed with her off and on because she has had 14 deaths in her family and friends over the last year and she needed support while she was grieving. The Tenant continued to say her relative parked a trailer on her driveway and then it was stuck there because of snow and winter conditions. The Tenant agreed the trailer was there for approximately 2 months.

The Tenant was asked if she received the warning letters and the 2 previous Notices to End Tenancy for unauthorized occupants in the rental unit. The Tenant said she did receive the warning letters and the Notices to End Tenancy and she thought she had talked to the Tenant Relations Coordinator T.F. about them and she thought things were OK.

The Landlord said the T.F. has no authority to re-instate tenancies and they have had no discussions with T.F. about authorizing occupants in the Tenant's rental unit. The Landlord said T.F. is off on medical leave so T.F. is not available for the hearing.

The Tenant's Advocate asked the Landlord to reconsider their position, to continue the tenancy and to give the Tenant and her 3 boys another chance. The Advocate said the Tenant will sign an agreement that says if she does anything wrong she will leave and not dispute the eviction. The Tenant said she is a positive part of the community and if she is evicted she will have to go to a woman's shelter with her three boys. The Advocate said if the Tenant is evicted it would be a huge loss and put her and her family into a very difficult situation. The Advocate asked the Landlord to continue the tenancy with the Tenant.

The Landlord said they have tried to work with the Tenant over the last 2 years without success because the Tenant will not communicate or co-operative with the Landlord and the rules of the tenancy agreement. The Landlord said this is a subsidized rental complex and it is a privilege to live in not a right. The Landlord continued to say that they have had reports from other tenants in the rental complex that the Tenant is not a model tenant. The Landlord declined the Tenant's offer for a settlement agreement to continue the tenancy. The Landlord said they want to end the tenancy, but they are willing to extend the time for occupancy until December 31, 2017 so that the Tenant can find other accommodations. The Landlord requested an Order of Possession for December 31, 2017 if the Tenant's application is not successful.

The Tenant's Advocate said if the Tenant is not successful would the Landlord consider January 31, 2018 because of the time of year.

The Landlord agreed to extend the occupancy time to the Tenant to January 31, 2018 if they receive an Order of Possession.

The Tenant said in closing that she need the subsidized housing and it would be a huge loss for her and her family to be evicted. The Tenant asked the Landlord to change their minds about the eviction and she promises to be a good tenant.

The Landlord said in closing they have tried to work with the Tenant but have ended up here. They have followed their policy and protocols and they do not want to continue the tenancy. The Landlord requested an Order of Possession effective January 31, 2018 if the Tenant's application is unsuccessful.

Analysis

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

(c) there are an unreasonable number of occupants in a rental unit;

I have reviewed the testimony and written evidence submitted. The Landlord has provided 4 warning letters and two Notice to End Tenancy (that were not acted on) as evidence that the Tenant had unauthorized occupants in the Tenant's rental unit. The Tenant did not dispute her father, his partner and a dog stayed with her and a relative parked his trailer on her drive way for 2 months. The tenancy agreement states who can occupancy the rental unit and does not accept other occupants other than guests for 14 days. I accept the Landlord's testimony and evidence that the Tenant had unauthorized occupants and unauthorized pets in the rental unit for more than 14 days at a time. The Landlord claims this was unreasonable because this is subsidized housing and the tenancy agreement state who can occupy the rental unit. Further the Landlord said the Tenant did not take any corrective action when requested to deal with the unauthorized occupants. I accept the warning letters and previous Notice to End Tenancy provided by the Landlord as proof that the Tenant's father and partner and dog have lived in the Tenant's rental unit for possibly up to 1.5 years. The Tenant's father, his partner and the dog did not have authorization to live in the unit therefore they are unauthorized occupants and according to the tenancy agreement this is considered an unreasonable number of occupants living in the rental unit. Consequently I find the Tenant has not established grounds to show the Landlord's 1 Month Notice to End Tenancy for Cause dated August 17, 2017 is not valid. I dismiss the Tenants application with out leave to reapply.

Pursuant to section 55 of the Act the Landlord will receive an Order of Possession with an effective vacancy date of January 31, 2018.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective January 31, 2018 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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 14, 2017

Residential Tenancy Branch