



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding INTRA PACIFIC BUILDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on June 22, 2018 (the "Application"). The Tenants applied for an order cancelling a one month notice to end tenancy for cause, pursuant to the *Residential Tenancy Act* (the "Act").

J.N. attended the hearing on behalf of both Tenants. The Landlord was represented at the hearing by E.C. and E.S., agents. All in attendance provided affirmed testimony.

On behalf of the Tenants, J.N. testified the Application package was served on the Landlord by registered mail. E.C. confirmed receipt on behalf of the Landlord. Further, E.C. testified that a documentary evidence package was served on the Tenants by registered mail. J.N. acknowledged receipt on behalf of the Tenants. No issues were raised during the hearing with respect to service or receipt of the above documents. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to 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

During the hearing, the parties agreed the corporate party named in the Application is the correct Landlord. Accordingly, with the agreement of the parties, and pursuant to section 64 of the Act, I amend the Application to reflect only the name of the corporate Landlord and not the property management company.

Issue to be Decided

Are the Tenants entitled to an order cancelling the One Month Notice?

Background and Evidence

The parties agreed the tenancy began on June 1, 2016. Rent in the amount of \$1,400.00 per month is due on the first day of each month. The Landlord holds a security deposit of \$675.00.

The Landlord wishes to end the tenancy. Accordingly, the Landlord issued a One Month Notice to End Tenancy for Cause, dated June 8, 2018 (the "One Month Notice"). The One Month Notice was served on the Tenant by registered mail on the same date. A copy of the One Month Notice was submitted into evidence.

The Landlord's agents testified the Tenant has significantly interfered with or unreasonably disturbed other occupants. The Landlord's agents referred to complaints about noise and the smell of marijuana from the Tenants' rental unit. In support, the Landlord submitted warning letters sent to the Tenants. In a letter dated February 22, 2017, the writer referred to incidents of "[e]xcessive, loud music throughout the night" on February 14 and 18, 2017. The Landlord followed up with a letter dated February 28, 2017, which described the earlier incidents and "the smell of marijuana coming from your unit." In a letter dated December 8, 2017, the Tenants were again warned about "excessive noise" coming from the Tenants' rental unit. Recently, in a letter dated April 4, 2018, the Tenants were warned of "another complaint regarding second hand Marijuana smoke...emitting from your unit and the smell is going into other tenants' suites."

E.S. testified that she has tried to discuss issues with the Tenants but has been unable to reach a resolution.

In reply, J.N. testified that his neighbour never complained to him about noise. J.N. also testified that he no longer parties like he used to. In addition, although he acknowledged smoking “weed”, he denied smoking it in the rental unit or on the property.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to take steps to end a tenancy for cause in the circumstances described therein. In this case, the Landlord wishes to end the tenancy on the basis that the Tenants have significantly interfered with or unreasonably disturbed another occupant.

In this case, the Landlord’s agents provided oral testimony, which I accept, that there have been numerous complaints about noise and the smell of marijuana emanating from the Tenants’ rental unit. On behalf of the Tenants, J.N. merely testified that one neighbour did not complain about noise. Further, despite his denial regarding the use of marijuana in the rental unit, I find it more likely than not that the Tenants, or a person permitted on the property by the Tenants, smoked in the rental unit, and that these disruptions significantly interfered with or unreasonably disturbed other tenants. Accordingly, I find the Application to cancel the One Month Notice is dismissed and the One Month Notice is upheld.

When a tenant’s application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenants.

As the tenancy is ending on the basis that the Tenants have significantly interfered with or unreasonably disturbed other tenants, it has not been necessary for me to consider the remaining basis for ending the tenancy.

Conclusion

Pursuant to section 55 of the *Act*, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenants. The order may be filed in and enforced as an order of 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: August 16, 2018

Residential Tenancy Branch