



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause.

The tenant attended the hearing with a person for support. The landlord also attended with a property manager. The tenant and the property manager each gave affirmed testimony and were given the opportunity to question each other.

No issues with respect to service or delivery of the Application for Dispute Resolution or notice of this hearing were raised by the parties, and no one has provided any evidentiary material.

Issue(s) to be Decided

Has the landlord established that the notice to end the tenancy was given in accordance with the *Residential Tenancy Act* or Ministerial Orders?

Background and Evidence

The property manager testified that this month-to-month tenancy began on February 1, 2020 and the tenant still resides in the rental unit. Rent in the amount of \$1,365.00 per month is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$300.00 as well as a pet damage deposit in the amount of \$100.00, both of which are still held in trust by the landlord. The rental unit is an apartment in a BC Housing

subsidized building containing 11 floors. The tenant resides on the 5th floor. A written tenancy agreement exists, but a copy has not been provided for this hearing.

The property manager also testified that on June 18, 2020 the landlord served the tenant with a 30-day notice to end the tenancy by posting it to the door of the rental unit. It is dated June 18, 2020 and contains an effective date of vacancy of July 31, 2020. The reason for issuing it states that the tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit. No one has provided a copy of the Notice.

The property manager testified that on June 17, 2020 around 3:00 a.m. the tenant drilled through the concrete floor damaging the in-floor heating system which damaged the rental unit and 3 units below which flooded. A restoration company was called, and a plumber also attended. The in-floor heating was damaged while the tenant was installing a floor safe by bolting it to the floor. It caused disruption to other tenants in the building by flooding..

The tenant testified that she was attempting to bolt the safe to a cabinet with an impact drill, which she dropped, and it caused the damage. The tenant took responsibility and told the landlord that she would pay for it, but the landlord put his hand up and said, "You're being evicted." It was an accident.

The plumber arrived at about 9:00 a.m. and said it was a quick, easy fix; not even a foot of pipe. The property manager didn't even look at the damage.

Analysis

During the course of the hearing, I was not able to offer information about issuing eviction notices during the COVID-19 Pandemic. I have now located that information, and a landlord may not issue a notice to end a tenancy for any reason between March 30 and June 23, 2020. Effective June 24, 2020 landlords may issue a notice to end a tenancy, with some restrictions as set out in the Ministerial Order but could not seek enforcement of an Order of Possession in Supreme Court until July 1, 2020.

In this case, although I do not have a copy of the notice to end the tenancy, the property manager for the landlord testified that it was dated and served on June 18, 2020, which is during the time set out in the Ministerial Order and contrary to the Order. Therefore, I cancel the Notice.

Conclusion

For the reasons set out above, the notice to end the tenancy dated June 18, 2020 is hereby cancelled and the tenancy continues.

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: July 30, 2020

Residential Tenancy Branch