



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order cancelling a One Month Notice to End Tenancy For Cause, and to recover the filing fee from the landlords for the cost of the application.

Both named tenants and one of the named landlords attended the hearing, and each gave affirmed testimony. Due to advice from the landlord's lawyer, and police regarding a no contact order, neither party was given the opportunity to question each other, but were permitted to give submissions.

At the commencement of the hearing I questioned the parties with respect to exchanging evidence. The parties agree that the landlord has received the tenants' evidentiary material, but the tenants did not agree that any evidence was provided to the tenants from the landlord. The landlord submitted that the evidence was sent to the tenants by registered mail on September 9, 2024 and has provided a photograph of an envelope addressed to the tenants with a Canada Post registered mail sticker, however it does not contain the address of the tenants, but a different address. I am not satisfied that the landlord has provided the evidence to the tenants, and I decline to consider it. All evidence of the tenants has been reviewed and the evidence and testimony of the parties I find relevant to the application is considered in this Decision.

During the course of the hearing, there were numerous interruptions of feedback and noise that affected the hearing. The landlord said that I had accused him, which I did not intend to do. However, I eventually muted the landlord's phone, and discovered that all feedback and noises stopped, which obviously came from the landlord's phone.

Issue(s) to be Decided

- Have the landlords established that the One Month Notice to End Tenancy For Cause was issued in accordance with the *Residential Tenancy Act*?

- Should the tenants recover the filing fee from the landlords?

Background and Evidence

The landlord testified that there is no written tenancy agreement, however this month-to-month tenancy began in March of last year and the tenants still reside in the rental unit. Rent in the amount of \$900.00 is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$450.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a basement suite, and the tenants share a kitchen and bathroom with other tenants. The landlord resides in the upper level, and the lower level suite is shared. No move-in condition inspection report was completed at the beginning of the tenancy.

The landlord further testified that on July 9, 2024 the landlord served the tenants with a One Month Notice to End Tenancy For Cause (the Notice) by posting it to the door of the rental unit. A copy of the Notice has been provided by the tenants for this hearing and it is dated July 9, 2024 and contains an effective date of vacancy of August 9, 2024. The reasons for issuing it state:

- 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 knowingly gave false information to prospective tenant or purchaser of the rental unit/site or property/park.

The landlord further testified that with respect to the first 2 reasons for issuing the Notice, a previous tenant moved out because the tenants called police on him, and he was distressed. Now another tenant, who is currently away on vacation, will be moving out if there is no resolution of the tenants moving out.

With respect to putting the landlord's property at significant risk, the landlord testified that the tenants have caused damage to the property, including a broken door and garbage left all over the place. The tenant wife had a habit of kicking the door open, and brought the damage to the landlord's attention, which cost the landlord \$600.00. Also, the landlord had to get a repair person to repair the dishwasher and the stove.

A couple of people came to look at the rental property, and the tenants called police on them, causing them to feel uncomfortable to move in after talking to the tenants. Newcomers are afraid, and the landlord does not know what false information the tenants gave, but the landlord does not feel that it is safe for the landlord's wife or other tenants. The landlord is stuck being a mediator.

The first tenant (TG) testified that all of the things that the landlord has said are untrue. The fellow who moved out sided with the landlord even though he left messes and didn't clean up. The tenants called police because he said he would throw the tenants' belongings out. The fellow and the landlord had been conspiring, and the tenants have provided an audio recording, which the police heard and sided with the tenants. The fellow who is on vacation is moving out because he recently got married and has applied for a Visa for his wife.

After the first month of the tenancy the landlord asked for a 25% rent increase, which the tenants denied.

The dishwasher is not a part of the tenancy agreement, and never worked, and was never fixed and is now in the same condition as when the tenants moved in. The stove broke twice, and the landlord said he got it repaired, but all of this happened within the first month of the tenancy.

The door was hard to open, and the other tenant is not large enough to break it. Other tenants opened the door for the tenant's spouse. The tenants had to call the landlord about how to get in.

The tenants are speechless, and have never seen anyone view the property. All of the landlord's claims are baseless, who is on a campaign of eviction since the tenants didn't agree to the rent increase. Recordings will show that the landlord is shouting and abusive.

The second tenant (NT) testified that the landlord's reasons are not supported by any evidence. The landlord has harassed the tenants since the first month. Another recording of police will show that the landlord has made numerous files and statements that are not accurate. The landlord is trying to get anything criminal against the tenants in order to evict.

The reason for issuing the Notice is that the tenants didn't agree to the rent increase, and that's when the landlord walked into the house without notice wanting the rent and said that he would file, and the landlord will be filing for other problems. Since then, there have been problems all the time.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, which can include the reason(s) for issuing it. In this case, I have reviewed the One Month Notice to End Tenancy For Cause provided by the tenants and I find that it is in the approved form and contains information required by the *Act*. The reasons for issuing it are in dispute.

One of the tenants testified that the person who moved out did so in conspiring with the landlord, and that the person said that he would throw the tenants' belongings out. The tenant also testified that the tenant who is away on vacation is moving out because he recently got married and has applied for a Visa for his wife.

The landlord testified that no move-in condition inspection report was completed at the beginning of the tenancy, and in the absence of such a report, I cannot be satisfied that the landlord had to repair a dishwasher or a stove, or a door as a result of the tenant's willful damages. However, I also accept the undisputed testimony of the tenant that the dishwasher is not part of the tenancy and never did work. I am not satisfied that the landlord has established that the stove was in good operational order at the beginning of the tenancy. A landlord is required to provide and maintain the rental unit in a state of decoration and repair that makes it suitable for occupation by a tenant, which includes a stove. The tenants also dispute that the door had been broken by the tenants, and that it was difficult to open, which is also the responsibility of the landlord.

The landlord also testified that he does not know what false information the tenants gave to a prospective tenant, and in the absence of any information or evidence in that regard, I am not satisfied that the landlord has established that the tenants did any such thing.

Considering the testimony of the parties, and the evidence of the tenants, and in the absence of any evidence from the landlords to support the disputed testimony of the landlord, I am not satisfied that the landlords have established any of the reasons for issuing the Notice, and I cancel it.

Since the tenants have been successful with the application, the tenants are also entitled to recover the \$100.00 filing fee from the landlords. I grant a monetary order in favour of the tenants as against the landlords in that amount. The landlords must be served with the order, and I order that the tenants be permitted to reduce rent for a future month by that amount, or may file the order in the Provincial Court of British Columbia, Small Claims division and enforce it as an order of that Court.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy For Cause dated July 9, 2024 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby grant a monetary order in favour of the tenants as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenants be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

This order is final and binding and may be enforced.

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: September 19, 2024

Residential Tenancy Branch