



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HARVEST PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, MNDC, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause and for a monetary order for compensation and the filing fee. Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to compensation?

Background and Evidence

The tenancy began in February 2007. The current monthly rent is \$1,030.00 payable on the first of each month. The rental unit is an apartment located in a building complex that houses a total of 80 apartments.

On December 19, 2014, the landlord served the tenant with a notice to end tenancy for cause. The reasons for the notice were that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Both parties made reference to events dating back to 2008. Pursuant to a notice to end tenancy in March 2008, for reasons similar to the reasons for the current notice, the parties came to an agreement and the notice was cancelled. The landlord filed a copy of the agreement. The tenant agreed to have no contact with the other occupants of the building complex and also agreed that if he did not comply with the terms of the agreement, another notice to end tenancy would be served on him.

The tenancy continued without significant incident until March 2012. A notice to end tenancy was served on the tenant for the same reasons and the parties went to a hearing. In a decision dated March 22, 2012, the notice was set aside for lack of sufficient recent evidence.

The landlord testified that the tenant's behavior is erratic and has caused other occupants of the building to complain about their fears for their safety. The caretaker herself testified that she feels insecure by the intimidating stares that the tenant gives her every time they pass each other. The caretaker stated that the tenant lurks around the elevator and jumps out in front of people which scares them and creates anxiety and fear.

The landlord filed four letters of complaint written by other occupants that are dated December 17, 2013 to January 21, 2014. The landlord also stated that he has received verbal complaints from occupants who will not send in a written complaint for fear of retaliation.

The landlord testified that on December 17, 2013, the tenant harassed two other occupants of the building by yelling, swearing and spitting. The landlord filed a copy of the complaint which also states that this was the second complaint about this type of behavior from the tenant.

Another letter filed into evidence describes the tenant's behavior as "erratic and explosive". The letter goes on to describe the actions of the tenant which caused the complainant to move out. The tenant argued that this couple moved out because of the lack of heat in the building. The caretaker also stated that one of the occupants of the building is a single female and she has made verbal complaints about the tenant and his behavior.

The tenant stated that he does not talk or interact with the other occupants unless they call him names first. He also stated that he suffers from claustrophobia and is unable to use the small elevator with other people and this is why he waits near the elevator, until he gets an opportunity to use it alone.

The tenant kept referring to the previous hearing and emphasized that the Arbitrator set aside the notice to end tenancy because the landlord had no reason to evict the tenant. The tenant stated that he has lived in the building for seven years and has always paid rent on time and is a good tenant. He also added that the landlord has embarked on a campaign to collect letters from other tenants in his mission to evict the tenant.

The landlord agreed that the tenant is a long term tenant who pays rent on time and therefore would not want to evict him unless the tenant gave him reason to do so. The landlord stated that attempts were made to work with the tenant over the years but the erratic behavior continues and other tenants are complaining and threatening to move out. .

The tenant stated that the landlord served him the notice to end tenancy just prior to the holidays in December and this caused the tenant a great deal of stress. The tenant is claiming \$3,800.00 as compensation for the loss of quiet enjoyment. The tenant stated that he arrived at this figure by claiming \$1,400.00 for a security deposit to book a new place, \$1,400.00 for rent for a new place and \$1,000.00 for the stress associated with the notice to end tenancy.

Analysis

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord and/or seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Based on the documentary evidence and testimony of both parties, I find that the tenant has exhibited behavior that causes safety concerns for the other occupants of the building. I further find that these issues have been addressed in the past with two notices to end tenancy. The landlord has attempted to work with the tenant as is evident from the written agreement between the two parties. However based on the recent written complaints from the other occupants of the building, I find that the tenant continues to behave in a manner that is unacceptable to the other occupants of the building.

In addition, I find that the tenant does not accept that this behavior is problematic and maintained throughout the hearing that he has not behaved in an inappropriate manner. Accordingly, I find that the tenant will not be in a position to amend his behavior because he believes that his actions are appropriate. For this reason, I find that the tenant will continue to behave in a manner that the other occupants of the building consider inappropriate and therefore I must uphold the notice.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy.

Accordingly, I so order. The tenant must be served with the order of possession. 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.

The tenant has made a claim for compensation for the stress that he experienced upon receipt of the notice to end tenancy. While I agree that receiving a notice to end tenancy is a stressful event, the landlord served the notice with reason and therefore the tenant is not entitled to compensation.

The tenant has not proven his case and must therefore bear the cost of filing his application.

Conclusion

I grant the landlord an order of possession effective on or before **1:00 pm on February 28, 2014.**

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: February 05, 2014

Residential Tenancy Branch

