



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPC, FF

Introduction

This was a hearing with respect to applications by the landlord and by the tenants. The landlord applied for an order for possession pursuant to a one month Notice to End Tenancy for cause. The tenants applied to cancel the Notice to End Tenancy. The tenants and the landlord's resident manager called in and participated in the hearing

Issue(s) to be Decided

Should the Notice to End Tenancy dated March 13, 2015 be cancelled?
Is the landlord entitled to an order for possession?

Background and Evidence

The rental unit is an town house apartment in the landlord's housing complex in Vancouver. The tenancy began in August, 2011. Monthly rent is payable on the first of each month.

On March 13, 2015, the landlord served the tenants with a one month Notice to End Tenancy for landlord's use. The Notice was dated March 13th and it stated that the tenants must move out of the rental unit by April 12, 2015. The Notice to End Tenancy alleged that the tenants had seriously jeopardized the health or safety or lawful right of another occupant or the landlord; that the tenants engaged in illegal activity that has or is likely to damage the landlord's property and that the tenants breached a material term of the tenancy and did not correct it within a reasonable time after written notice to do so.

The tenants applied to dispute the Notice to End Tenancy. At the hearing the landlord's representative acknowledged that there was no basis for the claim that the tenants had engaged in any illegal activity and this ground for ending the tenancy was abandoned.

The landlord's representative testified that the tenants kept the rental unit in a state that amounted to hoarding and that it constituted a hazard to the landlord and other occupants. The landlord's representative said that the tenants were given a warning notice in 2012 that the rental unit needed to be cleaned up. The landlord's representative said she performed suite inspections on March 10, 2015 and found the tenants' unit to be dirty, crowded, clutter and disorganized with unwashed dishes and dirty sinks and appliances. The landlord gave the tenants a written warning and said the unit would be re-inspected on March 13th. The landlord submitted photographs of the unit and the landlord's representative submitted that the photographs showed that there were ample grounds to justify the Notice to End Tenancy.

The tenants testified that after the landlord's representative inspected on March 10th the tenants performed some cleaning, but the landlord did not think it was adequate. The tenants denied that the pictures showed that the tenants were hoarders. The tenant said that the unit is cleaned up periodically and the tenants have lived at the rental unit since 2011 without incident, save for a notice to cleanup given in 2012.

The tenant also testified that he has purchased an apartment and the sale will complete in May. The tenants plan to move out of the rental unit in June. The tenant said that the landlord's pictures show a number of boxes containing documents related to the tenant's legal affairs that he was obliged to keep, but now that those matters have been resolved, he will be able to dispose of them. The tenants said that they would perform additional cleaning as the end of the tenancy approaches.

Analysis

The Notice to End Tenancy given by the landlord was dated March 13, 2015. If the Notice were upheld, the earliest date that the Notice could be effective is April 30, 2015, not April 12th as stated on the Notice itself. There were no recent complaints by the landlord about the cleanliness of the rental unit before March 13th. The last written complaint was given in October, 2012, more than two years earlier. I have considered the photographs of the rental unit submitted by the landlord. The pictures reveal that the unit is disordered, unkempt and in need of cleaning. There is a great deal of clutter. The stove and countertops are very dirty and there are unwashed dishes. The bathroom also needs cleaning. I do not consider that the tenants could be considered hoarders, based on the pictures submitted, but the tenants have not kept the rental unit in the condition that would meet ordinary expectations. I find that a warning to the tenants to clean the unit was in order, but I do not find that the condition of the rental unit as pictured justified the issuance of a one month Notice to End Tenancy,

particularly when the Notice was given only three days after an inspection, without any other recent warnings, the last written warning given 2 ½ years earlier.

I find that the Notice to End Tenancy should be cancelled and I so order. The tenancy will continue until ended in accordance with the *Residential Tenancy Act*. As discussed at the hearing, the landlord is at liberty to schedule a further inspection with the expectation that the tenants will comply with their promise to perform further cleaning.

The landlord is at liberty to issue another one month Notice to End Tenancy if, after a further inspection it considers that the condition of the rental unit justifies the service of a second Notice to End Tenancy.

Conclusion

The Notice to End Tenancy dated March 13, 2015 is cancelled. The landlord's application for an order for possession is dismissed. The tenants are entitled to recover the \$50.00 filing fee for their application. They may deduct the said sum from the next installment of rent due to the landlord.

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: April 27, 2015

Residential Tenancy Branch

