



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause. The tenant, an advocate for the tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid?

If so, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began approximately five years ago. The rental unit is an apartment on the first floor of a multi-unit building. At the outset of the tenancy the tenant informed the landlord that she smokes marijuana for medicinal purposes.

On February 24, 2015 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were: (1) the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord; and (2) the tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

Landlord's Evidence

The landlord stated that there have been times since the beginning of the tenancy when the odour from the tenant's smoking was quite strong, and they would ask the tenant to reduce the odour. The landlord stated that in December 2014 things started getting a lot worse, and a number of tenants said they had had enough. The landlord stated that the whole first floor of the building smelled like someone was standing in the lobby, smoking pot. The landlord stated that the incense the tenant uses does not help, it just adds to the odour. The landlord stated that tenants in the neighbouring unit complained that they would wake up in the night and it would smell like someone was smoking in their room. These tenants told the landlord that they were concerned about the health of their baby.

The landlord stated that they are aware of three other tenants in the building who smoke marijuana, one on the first floor, one on the second and one on the third. The landlord stated that they have dealt with these other tenants, and the problem now is with this tenant. The landlord stated that if this tenant stays, they will lose other tenants.

The landlord orally requested an order of possession effective June 30, 2015.

Tenant's Response

The tenant stated that her smoking habits have not changed in the time that she has occupied the rental unit. The tenant stated that she has taken several steps to reduce the amount of odour that escapes her rental unit, and recently the tenant bought a vaporizer, so there should be no odour at all now. The tenant stated that she finds it hard to believe that tenants on the third floor can smell marijuana coming from her unit on the first floor. The tenant stated that she feels the situation has become very personal for the landlord.

The tenant submitted letters of support from other tenants in the building.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the odour from the tenant's marijuana has significantly interfered with and unreasonably disturbed other occupants. I accept the landlord's evidence as credible that other tenants have made complaints about the strong odour of marijuana, and I also accept that most, if not all, of the odour complained about originated with the tenant.

I therefore find that the notice to end tenancy is valid. The landlord requested an order of possession for June 30, 2015, and I accordingly grant the order of possession.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective June 30, 2015. 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.

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 16, 2015

Residential Tenancy Branch

