



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WS BERNARD INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OLC, FF

Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy, for the Landlord to comply with the Act, regulations and tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on January 22, 2016. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to an Order to cancel the Notice to End Tenancy?
2. Has the Landlord complied with the Act, regulations and tenancy agreement?

Background and Evidence

This tenancy started on January 1, 2012 as a 6 month tenancy and then continued on a month to month basis after the end of the fixed term. Rent is \$817.00 per month payable the last day of each month. The Tenant paid a security deposit of \$390.00 on December 23, 2011.

The Landlord said he served the Tenant with a 1 Month Notice to End Tenancy for Cause dated January 7, 2016 by personal delivery on January 8, 2016. The Effective Vacancy Date on the Notice is February 13, 2016 which is incorrect and under section 53 of the Act the effective vacancy date automatically changes to the correct date of February 29, 2016. The Tenant is living in the unit and the Landlord said he wants to end the tenancy.

The Landlord said the reasons on the 1 Month Notice to End Tenancy are that the Tenant has allowed an unreasonable number of people to live in the unit, the Tenant has seriously interfered with or unreasonably disturbed other occupants or the Landlord, the Tenant has engaged in illegal activities that have adversely affected the quiet

enjoyment and security of other tenants and the Landlord and the Tenant has sublet the unit without authorization from the Landlord.

The Landlord said the incidents that lead to the issuing of the 1 Month Notice to End Tenancy are as follows:

- 1). The Tenant had 4 people living in the unit from June, 2016 to November 2016 and now has 3 people living in the unit from December, 2015 to the present. The Landlord said the Tenant has not got authorization from the Landlord for any of the occupants in the rental unit.
- 2). The Landlord submitted two signed letters from other tenants of the rental complex that state the Tenant has disturb them by noisy and disrespectful behaviour. One letter says the Tenants truck is loud and wakes the tenants up from their sleep. The other letter says the police have been called 10 times in regard to noise issues by the Tenant in the rental complex. The letter lists the police file numbers and gives the dates of the last two calls. The dates are January 15, 2016 and February 13, 2016.
- 3). The third reason the Landlord indicated on the Notice to End Tenancy is for illegal activity. The Landlord said the Tenant is sell drugs out of the rental unit. The Landlord did not provide any corroborative evidence of the Tenant selling drugs.
- 4). The Landlord said the last reason on the Notice to End Tenancy is that the Tenant has a new roommate and an additional person living in the rental unit. The Landlord said the Tenant did not get the Landlord's authorization for the new occupants or to change the tenancy agreement. The Landlord said the policy to change occupants in the rental units is to fill out an application and provide it with I.D. to the Landlord and then the Landlord will approve or decline the new occupant as a tenant. The Landlord said the Tenant did not do this and this is grounds to end the tenancy.

The Landlord said he wants to end the tenancy as soon as possible for the above reasons.

The Tenant said the Landlord's claims are untrue and he made the following statements regarding each of the points the Landlord made:

- 1). The Tenant said he was unemployed from August to November and his benefits ran out so he did have 2 additional people living in the rental unit to help with the rent but they have moved out. The Tenant continued to say that he has a new roommate now and her boyfriend was living with them but he is moving out.

2). The Tenant said with regard to disturbing other tenants in the complex he gets along well with everyone and he does not cause a disturbance. The Tenant said he has fixed his truck so it is not loud anymore and the Police have only been called three times not 10 times. As well the Tenant said the Police incident on January 15, 2016 was because of his birthday party and he was not aware of the incident on February 13, 2016. The Tenant said some of the Police calls have been about other tenants. The Tenant said the Police calls about him were not serious.

3). The Tenant said he does not sell drugs and the Landlord has no evidence that he does.

4). The Tenant said that he did not get authorization for his new roommate but he did try to make an application for her after she moved in. The Tenant said his roommate moved in January 1, 2016 and he tried to make the application for her to the Landlord's wife on January 7, 2016. The Tenant said the Landlord would not accept the application and gave him a Notice to End Tenancy for Cause on January 8, 2016. The Tenant said he cannot pay the rent without a roommate. The Tenant continued to say there are only 2 people living in the rental unit now because his roommate's boyfriend is moving out today.

The Landlord said in closing that he wants to end the tenancy as soon as possible because the Tenant continues to disturb other tenants and the landlord and he has unauthorized people living in the rental unit.

The Tenant said in closing that he is not subletting the unit as he still lives there and he has tried to correct any issues that have arisen. The Tenant said the Landlord shouts at the tenants and is unreasonable. The Tenant said he would like to continue to live in the rental unit so he is requesting the Notice to End Tenancy for Cause be cancelled.

Analysis

It is apparent from the testimony and evidence that there are issues between the Tenant and the Landlord. On a Notice to End Tenancy for Cause a landlord can be successful if one or more of the reasons given on the Notice are upheld. I find from the testimony of both the Landlord and the Tenant that the Tenant has had unauthorized persons up to 4 people living in the rental unit. The Tenant testified that 4 people were living in the unit from August to November and 3 people were living in the unit from January 1, 2016 to today. Further the Tenant testified that he did not advise or get authorization from the Landlord for any of these occupants of the rental unit. Consequently I find the Landlord has established grounds to end the tenancy for the reason of an unreasonable number of unauthorized persons living in the rental unit. Therefore I dismiss the Tenants application to cancel the Notice to End Tenancy for Cause dated January 7, 2016.

Further pursuant to section 55 of the Act I award the Landlord an Order of Possession for 2 days after service of the Order on the Tenant as the effective vacancy date on the Notice to End Tenancy of February 29, 2016 has past.

As the Tenant has been unsuccessful in this matter I order the Tenant to bear the cost of the application fee of \$100.00 that he has already paid.

Conclusion

The Tenant's application is dismissed without leave to reapply.

An Order of Possession effective 2 days after service has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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: March 07, 2016

Residential Tenancy Branch