



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1154949 BC LTD.
and [Tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *OPC, CNC, FF, MNDC, RR, PSF, LRE, OLC*

Introduction

This hearing dealt with applications by the Landlord and the Tenants, pursuant to the *Residential Tenancy Act*. The Landlord applied for an order of possession and the Tenants applied for an order to cancel the notice to end tenancy. The Tenant also applied for various other remedies which included monetary compensation, rent reduction, facilities, services and for an order directing the Landlord to comply with the *Act*. Both parties applied for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.

In this regard I find the Tenant has applied for an order for the Landlord to comply with the *Act* and for monetary compensation, rent reduction, facilities and services that were agreed upon but not provided. As these sections of the Tenant's application are unrelated to the main section, which is to cancel the one-month notice, I dismiss these sections of the Tenant's claim, with leave to reapply.

Accordingly, this hearing only dealt with the Tenant's application to set aside the notice to end tenancy and the Landlord's application for an order of possession.

Issues to be decided

Is the Landlord entitled to an order of possession or should the notice to end tenancy be set aside?

Are the parties entitled to the recovery of the filing fee?

Background and Evidence

The tenancy at this unit started in December 2020. The rental unit is an apartment located in an apartment building that houses a total of 56 units.

On May 17, 2024, a fire broke out in the rental unit, some time after midnight. The fire department was called, and the fire was successfully put out without damage to neighbouring units. The report from the fire department indicated that the fire was caused by a lit candle. The Tenant admitted to having lit a candle and agreed that it was what started the fire. The fire department sent photographs along with the report and it is evident from the photos that the rental unit is cluttered.

During the hearing the Tenant stated that efforts have started to declutter the unit by hiring the services of a housekeeper.

On May 23, 2024, the Landlord served the Tenants with a notice to end tenancy for cause. The reasons for the notice were that the Tenants have significantly interfered with or unreasonably disturbed another occupant or the Landlord, have seriously jeopardized the health and safety and a lawful right or interest of another occupant or the Landlord and have put the Landlord's property at significant risk.

The Landlord testified that since the start of tenancy, the Tenant has not been issued any warning letters other than one about allowing her pets to roam freely in the common areas of the property. The Landlord also stated that several other occupants of the building have expressed their fear of a similar incident in the future.

Analysis

In order to support the notice to end tenancy, the Landlord must prove that the Tenants significantly interfered with or unreasonably disturbed another occupant or the Landlord and /or seriously jeopardized the health and safety and a lawful right or interest of another occupant or the Landlord and/or put the Landlord's property at serious risk.

Based on all the evidence before me and the sworn testimony of the Landlord and the Tenants, I find that the fire was a one-time incident and that the Tenants are cognizant of the clutter in the rental unit and have started taking steps to correct it.

I further find that the Tenants have not given the Landlord reason to issue warning letters other than the pet incident, since the start of tenancy in December 2020. Therefore, I find that now the Tenants have been put on notice regarding their role in the fire and have been given an opportunity to correct this behaviour of lighting candles and allowing them to burn, unsupervised.

I therefore allow the Tenants' application and set aside the Landlord's notice to end tenancy dated May 23, 2024. As a result, the tenancy shall continue in accordance with its original terms.

The Tenants would be wise to refrain from giving the Landlord and the other occupants of the building, reason to complain about the Tenants' indoor use of candles. I find it timely to put the Tenants on notice that, if these alleged behaviours were to occur in the future and another notice to end tenancy issued, the record of these events would form part of the Landlord's case should it again come before an Arbitrator, for consideration.

The Landlord has not proven her case and must bear the cost of filing her application. The notice is set aside and therefore the Tenant is entitled to the recovery of the filing fee. The Tenants may make a onetime deduction of \$100.00 from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: July 29, 2024

Residential Tenancy Branch