



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: *CNC, MT, OLC, LRE, FF.*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for an order to allow the tenant more time to dispute the notice to end tenancy pursuant to Section 66 and an order to cancel the notice to end tenancy pursuant to Section 47. The tenant also applied for an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to Section 70, for the landlord to comply with the Act pursuant to Section 62 and to recover the filing fee, pursuant to Section 72.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

The notice to end tenancy for cause was served on the tenant on February 02, 2009 and the tenant applied for dispute resolution within ten days of receiving it. Hence, the application for more time to dispute the notice is unnecessary and therefore this portion of the tenant's application is dismissed.

Issues to be decided

Was the tenant served with a valid notice to end tenancy? Is the landlord entitled to an order of possession?

Background and Evidence

Based on the sworn testimony of both parties, the facts are as follows:

The tenancy started on December 01, 2003 on a month to month basis. Current rent is set at \$883.00 payable in advance on the first day of each month. On February 02, 2009, the landlord issued a one month notice to end tenancy for cause.

The reasons for this notice are that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and the tenant has seriously jeopardized the health and safety of another occupant or the landlord.

The landlord submitted into evidence five letters of complaint written by three tenants of the building complex, regarding three different incidents involving the tenant. Three letters were written in the month of October 2008 and describe the tenant as being verbally abusive and using a garden hose to spray water in an aggressive manner towards the complainants. The landlord sent warning letters to the tenant on October 21, 2008 and November 12, 2008. On November 23, 2008 two more similar complaints were received by the landlord, from other tenants of the building complex and on December 08, 2008, the landlord sent a warning letter to the tenant advising the tenant that this was the third and final warning.

On February 02, 2009 the building manager wrote a report re his attempt to deliver a letter to the tenant. The manager testified that the tenant was verbally abusive, behaved in a confrontational manner towards the manager and then lashed out hitting the manager on the back of the head with the letter. The manager stated that upon discussion with the office manager, it was decided that in the interest of the safety of staff and other tenants, an eviction notice would be served to the tenant.

The tenant denied that he hit the manager with the letter. The tenant stated that he did not take the letter from the manager, but asked him to place it on a table on the outside the home. The tenant also stated that he was verbally abusive to the other tenants in response to their verbal abuse and was significantly and unreasonably disturbed by the property managers who have also jeopardized the tenants' safety.

The landlord referred to a decision rendered on June 23, 2008 by a Dispute Resolution officer in which the landlord agreed to withdraw the notice to end tenancy dated May 21, 2008, on condition that the tenant agreed that the tenant would attempt to live in harmony with the neighbors and agreed to recognize management and communicate on all matters of dispute.

The tenant's spouse suffers from Lou Gehrig's disease and the rental unit has been modified to help her caregivers assist her. The tenant stated that his spouse is in the terminal stages of the disease and a move now would have significant adverse consequences on her health and on their financial resources. The landlord stated that the tenant was given several chances to cooperate with the property managers and live in harmony with the neighbors, but chose not to modify his behavior. The landlord stated that it was in the interest of the safety and well being of the other tenants and staff, that it is imperative that this tenant move out of the building complex.

Analysis

Pursuant to Section 47 of the *Residential Tenancy Act*, a landlord may end a tenancy by giving notice to end the tenancy if the tenant has significantly interfered with or unreasonably disturbed another occupant of the landlord of the residential property. Based on the oral and documentary evidence submitted by both parties, I find that the tenant was given at least three opportunities to live in harmony with the neighbors and the landlord withdrew the notice to end tenancy dated May 21, 2008 to give the tenant an opportunity to comply. However, problems are still prevalent and I must uphold the notice to end tenancy. Given the state of health of the tenant's spouse, the landlord has agreed to allow the tenancy to continue on for five months after which time the tenancy will end. The property managers agreed to have minimal contact with the tenant and will send all letters or memos by regular or registered mail to the tenant.

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 must also bear the cost of filing this application.

Conclusion

I hereby issue an order of possession in favor of the landlord effective on or before **1:00 pm on August 01, 2009.**

Dated February 25, 2009.

Dispute Resolution Officer