



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: CNC & FF

Introduction:

This hearing dealt with an application by the tenant to have a one month Notice to End Tenancy for cause set aside. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

Issue to be Determined:

Should the one month Notice to End Tenancy for cause be set aside?

Background and Evidence:

This tenancy began on August 5, 2008 for the monthly rent of \$600.00 and a security deposit of \$300.00. The tenant was served with a one month Notice to End Tenancy for cause after events that occurred on the night of January 25, 2009.

The landlord submits that the tenant significantly interfered with or unreasonably disturbed other occupants and the landlord to a degree that the tenancy should be ended. The landlord submitted that on the night of January 25, 2009 the tenant was screaming and making enough noise in the rental unit to wake several occupants and lead them to call the police. After the police arrived the tenant failed to open the rental unit on request and failed to respond to the police attempts to calm the situation. The end result was that the tenant was tasered twice and removed from the rental unit.

The landlord verbally requested an Order of Possession.

A witness for the landlord stated that noise from the tenant woke her up. While she was getting a glass of water she heard the police arrive. The witness stated that the police told all occupants to remain in their apartments. She heard the police request that the tenant open the door to his rental unit and after they entered the unit she heard the police ask the tenant to calm down and eventually she heard the police warn the tenant that he would be tasered.

The tenant stated that the only disturbance was due to the police. He stated that he woke up during the night and while getting a glass of water he hit his head on the hanging light fixture and broke the glass. He stated that this was the only disturbance he caused. The tenant alleged that the landlord called the police only based on this minor incident. The tenant said that the police did not talk to him but rather raided the apartment and tasered him without warning or cause. The tenant denies disturbing the other occupants that night or at any other time.

Analysis:

Section 47 of the *Act* provides that a tenancy may be ended with one month's notice on the basis that the tenant has significantly interfered with or disturbed other occupants or the landlord. The test for whether a disturbance is sufficient cause is usually based on whether the party causing the disturbance would reasonably expect that the actions would unreasonably disturb other occupants.

I do not accept the tenant's version of the event of January 25, 2009. I find that the tenant's version is not consistent with the very dramatic and serious result once the police were called to the scene. I do not accept the tenant's position that the police raided his apartment without cause and tasered him without cause. I accept the evidence of the witness that the tenant was asked several times during the incident to cooperate with the police and that he was warned that he would be tasered.

Although I have no actual knowledge of what the tenant was doing which lead to this outcome, I am satisfied on the balance of probabilities that the tenant was creating such a disturbance that it caused the landlord and other occupants to call the police to keep the peace and further that due to the actions of the tenant the police made the serious decision to use force to detain the tenant. I do not believe these actions were made without significant cause.

I find that the events of January 25, 2009 were significant and disturbing. I accept that the actions of the tenant were unreasonable and disturbing to other occupants and the landlord. I find that the one month Notice to End Tenancy for cause is valid and should be enforced. I deny the tenant's application.

I grant the landlord's request for an Order of Possession effective **February 28, 2009 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion:

I have denied the tenant's application to set aside a one month Notice to End Tenancy for cause. I have granted the landlord an Order of Possession.

Dated February 19, 2009.

Dispute Resolution Officer