



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, OLC, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and an order to have the landlord comply with a previous director's order.

The hearing was conducted via teleconference and was attended by the tenant, the landlord's agent, witness and society executive observer.

While the tenant had provided documentary evidence prior to the hearing regarding a monetary claim, he did not include this request on his Application. However, as the landlord was aware that this was an issue the tenant disputed and was prepared to provide testimony and evidence on the matter, I amend the tenant's Application to include compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

In the hearing the landlord requested an order of possession should the tenant not be successful in the portion of his application to cancel the notice to end tenancy.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause; to an order to have the landlord comply with a previous Dispute Resolution Hearing decision; to have the Director censure the landlord; to a monetary order for compensation resulting from damage to the tenant's bicycle, pursuant to Sections 47, 55, 67, and 72 of the *Act*.

It must also be decided whether the landlord is entitled to an order of possession for cause, pursuant to Section 55 of the *Act*.

Background and Evidence

The tenancy began in June of 2007 as a month to month tenancy for the current monthly rent of \$355.00 due on the 1st of the month. A security deposit was not collected by the landlord.

The tenant submitted a copy of a Dispute Resolution decision dated February 2, 2010 outlining the mutual agreement between the parties in that dispute between the same parties with some additional tenants.

The tenant testified the landlord has failed to provide an explanation of the new smoking policy for new tenancy agreements to the tenants who were residing in the residential property on September 8, 2009. The landlord testified that he had not understood what the tenant was seeking but now that he does he will ensure these tenants are provided with a copy of the new policy.

The tenant alleges the landlord's agent either damaged or was present when his bicycle was damaged on the day the tenant had an argument with the landlord. The tenant did not witness how the damage was caused. The landlord provided a written statement from a contractor who was on site that date that states a red truck backed up into the big and drove away.

The tenant also provided a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on October 26, 2010 with an effective date of November 30, 2010 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that there were three issues with the tenant that lead to the issuance of the 1 Month Notice to End Tenancy for Cause:

1. The tenant continues to feed birds from his rental unit, despite the landlord informing him from the beginning of the tenancy that this was unacceptable. The landlord has included in his evidence several communiqués to the tenant asking him to stop feeding the birds;
2. Riding his bike on the sidewalk. The landlord testified the tenant rides his bike on the sidewalk that runs right in front of several entry doors, including at least two other tenants who have vision problems which causes those tenants concern when they enter the sidewalk. The landlord has provided the tenant several warnings on this matter; and
3. The main issue is the tenant's recent behaviour, in the form of a threat to the manager over the issue of the cutting of trees on the residential property. During an interaction in the complex parking lot between the tenant and the manager, when the manager would not provide the tenant with the information he wanted the tenant stated "I know where you live". The manager questioned him as to whether this was a threat; the tenant did not respond. When the manager drove away the tenant hit the manager's vehicle with his hand. The manager reported the incident to the police.

The tenant contends that he hasn't, until this latest cold spell, had not fed the birds in over a year on the residential property. The landlord testified that the tenant never ceased to feed the birds at all.

The tenant does not dispute riding his bike on the sidewalk but indicates people could use a different entrance where the side walk is farther away from the entrance.

The tenant does not dispute the events in the parking lot but does deny that he intended to threaten the manager. When asked what he meant by the phrase "I know where you live" the tenant said he simply noted that he was aware of where the manager lived as he had previously done some work there.

The issue being discussed was the landlord's intention to cut some trees down from the side of the property that is directly in front of the tenant's rental unit. The tenant disagrees with the landlord's intention and wanted to have the local press attend the site when the trees were being cut down.

When the trees were being cut, the tenant also situated himself in front of the trees in front of his unit and refused to move out of the way of the cutter until the local police arrived and removed the tenant from the trees.

The landlord also noted that the night before the hearing the tenant had assaulted one of the other residents in the residential property. The tenant testified that his neighbour in question had been playing his music very loudly and that he had tried to get him to turn it down by banging on the wall.

When he could not get the neighbour to turn the music down he went to his neighbour's door and during the argument the tenant acknowledges that he hit the neighbour.

Analysis

In relation to the tenant's claim for compensation for damages to his bicycle, the tenant has failed to provide sufficient evidence to substantiate his claim that the manager caused or was responsible for the damage or that the loss or damage results from a violation of the *Act*, regulation or tenancy agreement. I therefore dismiss this portion of his Application.

As the previous dispute resolution proceeding resulted in a mutual agreement, I have no authority to enforce the agreement made, however, the landlord in this hearing did commit to provide copies of the new smoking policy to existing tenants.

In relation to the tenant's application to have the landlord censured, there is no authority under the *Act* or regulations for me to censure any party in a tenancy; I dismiss this portion of the tenant's Application.

Section 47 of the *Act* allows a landlord to end a tenancy by giving a notice to end the tenancy if the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord

or seriously jeopardized the health or safety or a lawful right or interest of the landlord or another property.

In relation to the tenant's request to cancel the 1 Month Notice to End Tenancy for Cause, I find the landlord has established, through his evidence and testimony, sufficient cause to end the tenancy in accordance with Section 47 of the *Act*. I find the landlord has issued the notice in accordance with both Section 47 and 52 of the *Act* and find the notice to be effective.

Conclusion

In accordance with Section 55(1)(a) and (b) and the above analysis, I find that the landlord is entitled to an Order of Possession effective **November 30, 2010, after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court 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: November 26, 2010.

Dispute Resolution Officer