



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This conference call hearing was convened in response to the tenant's application for cancellation of a 1 Month Notice to End Tenancy for Cause and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the notice to end tenancy be set aside, and should the tenancy continue?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a bachelor suite in a subsidized housing living complex. Pursuant to a written agreement, the tenancy started on November 1, 2008. The tenant's portion of the rent is \$380.00 per month and the tenant paid a security deposit of \$300.00.

The landlord testified that the reason for issuing the 1 Month Notice to End Tenancy centres around a February 20, 2012 incident. She said at the outset that the complex houses senior citizens, and that this tenant is one of the youngest occupants. On the

date in question, the landlord stated that the tenant observed in the hallway under the influence either drugs or alcohol; that he threatened to burn the building down; that the other tenants were terrified; and that the level of potential violence or future occurrence seriously jeopardized the health or safety of other occupants.

Z.D, the resident manager, testified that she was alerted on that day by other occupants, and that they were very scared; she said that the tenant's music was playing very loud; that the tenant was not in his suite and that she confronted him in the hallway where the tenant yelled, screamed, and threatened her to the point where she did not know what to expect. She said that the tenant threw a lamp out the window onto the parking lot.

Occupant D.M testified that he heard the commotion, that he partially opened his front door but did not intervene at the risk of making things worse. He said that the tenant was slamming his door, yelling and screaming over issues with the previous landlord, and that his behaviour was offensive and completely unacceptable.

In her documentary evidence, the landlord provided in part; two warning letters dated November 9 and December 15, 2011 concerning the tenant allowing a former banned tenant into the building; four complaints from the building manager and four other tenants concerning an incident on February 20, 2012, where the tenant played extremely loud music late in the evening; a letter of apology from the tenant concerning this incident; and a report from the resident manager providing more details concerning the incident, such as the tenant being highly intoxicated, rude, aggressive, and throwing things through the window onto the parking lot below.

The tenant addressed the landlord's documentary evidence. Concerning the warning letters, the tenant stated that they were not founded because he had evidence that the alleged banned tenant was not in town and could not have been inside his suite as alleged. The tenant submitted that these false allegations violated his right to quiet enjoyment. Concerning the February 20, 2012 incident, the tenant argued that he did

not throw a lamp out the window; he stated that he had been drinking and that he was upset and apologized again for his behaviour. He said that the problems with the former resident manager may have accumulated to the point where he had a temporary breakdown, but that he is not violent and that this will never happen again.

At the hearing, an opportunity for an informal resolution to this matter was provided however the parties could not reach an agreement.

Analysis

Although the tenant disagreed with the allegations of allowing a banned tenant into the building, I find on the evidence that the tenant did have a late night disturbance on February 20, 2012 and that the level of disturbance gave the landlord grounds to issue the notice to end tenancy for this incident. I take into consideration that this is a senior's complex and that the landlord provided sufficient evidence that on February 20, 2012, the tenant did significantly interfere with or unreasonably disturbed another occupant or the landlord. The tenant admitted to drinking and that his behaviour was inappropriate. I find on a balance of probabilities that his behaviour that night also seriously jeopardized the safety or lawful right of another occupant or the landlord.

I therefore deny the tenant's application to cancel the Notice to End Tenancy.

Conclusion

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

Section 55(1) of the *Residential Tenancy Act* states:

"If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) The landlord makes an oral request for an order of possession, and*
- (b) The director dismisses the tenant's application or upholds the landlord's notice."*

The landlord made an oral request for an Order of Possession at the hearing. Section 55(3) of the Act allows me to specify the date that the Order of Possession will take effect. Pursuant to that section, I grant the landlord an Order of Possession effective on the date specified on the 1 Month Notice to End Tenancy.

This Order may be filed in the Supreme Court of British Columbia 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: March 14, 2012.

Residential Tenancy Branch