



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LAKEVIEW MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Landlord: OPC, FF

Tenant: CNC, MNDC, MNSD, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking to end the tenancy and to recover the filing fee for this proceeding.

The Tenant has applied to cancel the Notice to End Tenancy and the Tenant is seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement, to recover the security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenant were done by personal delivery on May 10, 2013, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlord were done by personal delivery on May 10, 2013, in accordance with section 89 of the Act.

Issues to be Decided

Landlord:

1. Is the Landlord entitled to end the tenancy?

Tenant:

1. Is the Tenant entitled to have the Notice to End Tenancy cancelled?
2. Are there damages or losses to the Tenant and if so how much?
3. Is the Tenant entitled to compensation for loss or damage and if so how much?
4. Is the Tenant entitled to recover the security deposit?

Background and Evidence

This tenancy agreement started on February 1, 2012 as a month to month tenancy. Rent is \$500.00 per month payable on the 5st day of each month. The Tenant paid a security deposit of \$250.00 in advance of the tenancy.

The Landlord said he served the Tenant with a 1 Month Notice to End Tenancy for Cause dated April 29, 2013 by personal delivery on April 29, 2013. The Effective Vacancy Date on the Notice is May 31, 2013. The Tenant is living in the unit and the Landlord said he wants to end the tenancy because the Tenant is disturbing and interfering with the other tenants in the rental complex.

The Landlord said the reason on the 1 Month Notice to End Tenancy is that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The Landlord continued to say he gave the Tenant a verbal warning about disturbing other tenants in late February, 2013 and again at the end of March, 2013. The Tenant said she agrees with the March meeting, but she did not remember a February meeting with the Landlord. As well the Tenant said she had a talk with the Landlord in April at the outside dumpster about issues in the building. The Tenant said the meeting with the Landlord was friendly. The Landlord said he believed that meeting the Tenant is referring to in April is the one he had with the Tenant in February, 2013.

The Landlord said there were a number of incidents that lead to the issuing of the 1 Month Notice to End Tenancy and they are as follows:

- 1). The Landlord received 5 written complaints from other tenants about the Tenant and some addition verbal complaints about the Tenant's behaviour in the building. The other tenants complained that the Tenant was noisy, made threats against them and was bothering them by borrowing things and requesting rides to places. The Landlord included the letters into evidence.
- 2) The first letter the Landlord referred to was a letter from two female tenants that moved out of the rental complex because they said they were uncomfortable with the Tenant and they found her threatening.
- 3). The second letter the Landlord presented was from a male tenant that said he was threatened by the Tenant and he included the Tenants letter with the threat in it. The threat was that the Tenant wrote "I have Hells Angels looking in to this matter----- Wake Up??". The Tenant said that as a result of this incident she has been charged with fear of injury and is on probation until her trial on June 27, 2013. The Landlord said the male tenant who made the complaint has been in the building for 8 years and he has not had any issues with him previously.
- 4) The next letter of complaint about the Tenant was from a female tenant who indicated she had difficulties writing a letter of complaint because she was afraid of the Tenant and what she might do if she wrote a letter of complaint. The Landlord said he spoke with the Tenant on two occasion to correct her behaviour and the Landlord told her if she did not he would evict her from the

rental complex. The Landlord said the Tenant has continued to interfere and disturb the other tenants and as a result the Landlord said he is requesting an Order of Possession for as soon as possible.

The Tenant responded to the Landlord's claims with the following statements regarding each of the points the Landlord made:

- 1). The Tenant said when she moved into the building she realized there were some problems and issues in the rental complex and as she lived there for a while she believed the other tenants and the landlord were blaming her for the problems in the building. The Tenant continued to say that she did borrow a few items and did ask for rides, but it was just neighbour stuff not that she was bothering any one.
- 2). The Tenant said she did read the complaint letters and she believes they were written to assist the Landlord in evicting her and they were not true or overstated. The Tenant said she believes the 2 female tenants moved out for other reasons and she had a good relationship with them. The Tenant thought they may have moved because of drugs in the building.
- 3) The Tenant said she agreed that she did write the letter to the male tenant and she is charged with fear of injury and is presently under a peace bond and is on probation until her trial because of the incident. The Tenant said she did not mean it like it sounds.
- 4) The Tenant said that she had a good relationship with the female tenant who was worried about writing the letter so she did not understand why the female tenant wrote it.

The Tenant said that she thought these incidents were not her fault, but resulted from problems in the rental complex which she was being blamed for.

Further the Tenant said that she is requesting monetary compensation of \$2,500.00 for the loss of quiet enjoyment of her rental unit. The Tenant said she calculated this as all the rent she has paid in the amount of \$2,000.00, the return of her security deposit of \$250.00 and an estimated \$250.00 for moving costs.

The Tenant said in closing that the problems in the building are not her making but the Landlord is blaming her so that he can evict her. The Tenant said she does not think this is fair and she believes the evidence the Landlord has sent in is not true. The Tenant said she has not submitted any evidence to corroborate her testimony or to refute the Landlord's testimony.

The Landlord said in closing that the Tenant has significantly interfered with or unreasonable disturbed other occupants or the landlord and as a result the Landlord requested an Order of Possession for as soon as possible.

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Tenant has not proven the loss existed as the Tenant has had full use of the rental unit from February through to June, 2013 and the Tenant has not provided corroborating evidence to support any of her claims. Consequently, I find the Tenant has not established grounds to be awarded the monetary compensation requested in her application due to a lack of evidence. I dismiss the Tenant's monetary claim without leave to reapply.

Further I find the Tenant has not provided any corroborating evidence that supports a finding to cancel the Notice to End Tenancy. The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met. As a result I dismiss the Tenants application to cancel the Notice to End Tenancy dated April 29, 2013 due to lack of evidence.

With respect to the Landlord's application I accept the Landlord's testimony and supporting evidence that the Tenant has significantly interfered with or unreasonable disturbed other tenants. I find this as the Tenant testified that she is charged with "fear of injury" to the male tenant as a result of the incident between the Tenant and the male tenant. As well I accept the letter written by the two female tenants that said they moved out of the rental unit because of the Tenant. Both of these incidents are of the level of **significant** or are the level of **unreasonable** to warrant the Landlord to issue a Notice to End Tenancy for Cause. I find the Landlord has established grounds for an Order of Possession pursuant to section 55 of the Act with an effective vacancy date of 2 days after the Notice is served upon the Tenant.

As the Landlord has been successful in this matter I order the Landlord to recover the filing fee of \$50.00 from the Tenant's security deposit.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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

The Landlord is ordered to retain \$50.00 of the Tenant's security deposit to cover the cost of this application.

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: June 05, 2013

Residential Tenancy Branch

