



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAN KEI ENTERPRISES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

The tenant applied under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”).

The tenant, an advocate for the tenant (the “tenant advocate”), an agent for the landlord (the “agent”), a witness for the landlord (the “landlord witness”) attended the hearing. At the start of the hearing I introduced myself and the participants. The parties had the dispute resolution process explained to them and were provided with the opportunity to submit documentary evidence prior to this hearing. I have summarized all of the relevant evidence relevant to the matter before me below.

The tenant confirmed that he did not submit evidence as part of his application and confirmed that he did not include a copy of the 1 Month Notice in evidence. The landlord’s evidence was excluded from the hearing as the landlord served their evidence on the Residential Tenancy Branch late, and not in accordance with the rules of procedure. The parties did provide oral testimony during the hearing.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The parties agreed that a month to month tenancy began on May 1, 2012. Monthly rent in the amount of \$400.00 is due on the first day of each month. The tenant paid a security deposit of \$200.00 at the start of the tenancy.

The tenant confirmed that he was served on November 29, 2013 with a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) dated November 29, 2013 alleging six causes. The six causes indicated on the 1 Month Notice are:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

2. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health and safety or lawful right of another occupant or the landlord.
3. The tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
4. The tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.
5. The tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
6. The tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The tenant disputed the notice on December 3, 2013 which is within 10 days of being served with the 1 Month Notice on November 29, 2013. The effective vacancy date on the 1 Month Notice is listed as December 31, 2013.

The agent presented landlord witness, WF, who testified that the tenant admitted to him that he broke his lock on his rental unit door and the door frame by "kicking it in". Landlord witness WF also testified that the tenant's girlfriend who lived in unit 123 complained that the tenant also kicked in her door and broke the lock and door to unit 123.

The tenant and the advocate were provided the opportunity to cross-examine landlord witness WF; however, both the tenant and the advocate did not have any questions for the witness WF. The tenant then confirmed under oath that he did not dispute any of the testimony of landlord witness WF. The agent made a verbal request for an order of possession during the hearing.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

1 Month Notice to End Tenancy for Cause – The witness for the landlord, WF, testified that the tenant kicked in his door and broke both the door lock and the door frame, which the tenant did not dispute. In addition, witness WF testified that the tenant's girlfriend who lived in unit 123 complained that the tenant also kicked in her door and broke the lock and door to unit 123, which the tenant did not dispute during the hearing. Therefore, based on the above, **I find** the landlord has met the burden of proof by proving that that 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 has put the landlord's property at significant risk.

Given the above, **I dismiss** the tenant's application in full, **without leave to reapply**. **I uphold** the landlord's 1 Month Notice dated November 29, 2013. The agent verbally requested an order of possession during the hearing.

As the tenant's application has been dismissed, **I find** it is not necessary to consider the remaining causes listed on the 1 Month Notice. Section 55 of the *Act* states:

Order of possession for the landlord

55 (1) 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.**

[emphasis added]

Given the above and taking into account the agent's oral request for an order of possession during the hearing, **I find** that the landlord is entitled to an order of possession effective **two (2) days after service on the tenant**, as the effective vacancy date listed on the 1 Month Notice, December 31, 2013, has passed. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

Conclusion

The tenant's application to cancel the 1 Month Notice to End Tenancy for Cause has been dismissed and the 1 Month Notice issued by the landlord has been upheld.

The landlord has been granted an order of possession effective **two (2) days after service on the tenant**. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: January 23, 2014

Residential Tenancy Branch

