



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Properties Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant for an order setting aside a 1 Month Notice to End Tenancy for Cause dated March 5, 2014. Both parties appeared and had an opportunity to be heard.

Issue(s) to be Decided

Does the landlord have cause, within the meaning of the *Residential Tenancy Act*, to end this tenancy?

Background and Evidence

This tenancy commenced March 1, 2013, as a one year fixed term tenancy and has continued since the expiry of the term as a month-to-month tenancy. The monthly rent of \$650.00 is due on the first day of the month. The tenant paid a security deposit of \$325.00.

The rental unit is a bachelor apartment located on the main level of a thirty unit apartment building. The building is U-shaped with the units arranged around an open central courtyard. The tenant's front door is next to the mailboxes.

The resident manager started her employment on August 19, 2013. On that day workmen were making repairs to the balcony above the tenant's. When he came home and found a ladder and debris on his balcony he became very upset. He said he had not been given proper notice and that he had planned on entertaining company on his balcony that day. The undisputed evidence is that the tenant proceeded to threaten, yell obscenities, and throw coffee at the tradesmen.

The property manager called the resident manager and asked her to look into the situation. She went to the rental unit and spoke to the tenant about his behaviour. The tenant testified that he did not like the way she spoke to him and admitted that he used vulgar language and profanity towards her. The resident manager called the police.

The tradesmen were finished the repairs by mid-morning. That afternoon the police called the resident manager. They knew the tenant and told the resident manager they would speak to him.

In December major repairs were required to unit 103, which is next to the tenant's unit. The resident manager gave the plumber permission to bring his truck into the courtyard to facilitate the loading and unloading of garbage and materials. The resident manager testified that the tenant stalked around the plumber's truck, made several telephone calls that included giving the licence plate number of the truck and her private address to various person, and yelled and insulted both her and the tradesmen.

The tenant testified that he was concerned about the plumber's truck because it had a badly cracked windshield. He called the police, the motor vehicle branch, and WorkSafe BC.

Because he is so aggressive towards her, the resident manager tried to stay away from the scene. She said the plumber and the tenant had an argument which ended with the tenant going into his unit. The tenant said that an unknown man threatened him with a hammer. He called the police about the man's behaviour.

The police did attend the property in response to the tenant's call. There is no evidence of any charges being laid or any other action being taken as a result of the police inquiries into his complaint.

A representative from WorkSafe BC also attended that afternoon. After making some inquiries this person told the resident manager that he had seen enough and she had nothing to worry about.

The plumber subsequently advised the landlord that on his way home from this job he was stopped by the police. They told him they had received a report of someone smoking crack in the truck and were required to check it out. No charges were laid.

The tenant wrote a letter to the landlord complaining about the events of the day, the resident manager and some other issues. The property manager wrote the tenant advising that his negative and aggressive behaviour with tradespeople and the caretaker was ground for termination of tenancy and that if this behaviour continued he would be served with a notice of eviction.

In February the tenant complained to the property manager that the resident manager was stealing his mail. On February 15 the resident manager found an anonymous note in her mail box which called her a very vulgar name.

The tenant testified that he did not receive some mail he had been expecting and he thought that the resident manager, who might be harbouring ill will towards him as a result of the things he had said to her in August, or another tenant in the building, might be interfering with his mail.

The tenant testified that on March 4 he came home from a week long stay in hospital to find the word "DIE" scratched on his mailbox. This really upset him. When he told the resident manager about this she did not appear particularly concerned. The tenant testified that after this conversation he just carried on with his day.

The resident manager testified that on March 5 she received an e-mail from one of the other tenants of the building saying she had seen the tenant walking towards the mailboxes with a crowbar in his hand. He was visibly upset and muttering. She then heard some very loud banging and then saw the tenant walk back to his unit. The resident manager immediately investigated the mailboxes and discovered that the mailbox for unit 103 had been destroyed with a blunt instrument.

The tenant from 103 called the police. They responded with six officers in two cruisers. The police explained to the resident manager that they had come *en masse* because of the tenant's past history.

The property manager told the resident manager that a notice to end tenancy should be served on the tenant. She completed the notice and the police organized matters so that they would be present when she served it on the tenant. When she went to the tenant's unit there were two officers in the unit with the tenant and; one beside her. She stepped into the unit to give the tenant the notice to end tenancy. The tenant became very angry – yelled and swore at her and told her to get out of the unit.

AS the resident manager tried to testify about this event the tenant continually interrupted her despite frequent requests that he not do so. He accused the resident manager of lying and said that "everyone should take the lithium they've been prescribed". When he gave his testimony the tenant said the resident manager had come several steps into his unit without having given him the required notice to enter.

In his testimony the tenant denied causing any damage to the mailbox.

The resident manager testified that since the notice to end tenancy was served on the tenant she has been receiving two to three e-mails or telephone calls each week from four or five of the other tenants. She stated that the women are afraid of the tenant; the men want to hurt him.

The tenant testified that recently the tenant in 103 had threatened him with bodily harm if he didn't stay away from his mailbox.

The tenant has paid the rent to the end of April.

Analysis

On an application such as this the onus is on the landlord to prove, on a balance of probabilities, the grounds stated on the 1 Month Notice to End Tenancy for Cause. The grounds stated on this notice are:

"The tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonable disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk."

The tenant's own testimony reveals that his response to situations that have arisen has been inappropriate and disturbing to the people living near him.

First of all, the tenant has no right to interfere with the tradesmen hired by the landlord to make repairs to other units in the building. Even if he had not received proper notice –an issue on which I make no finding – this does not entitle the tenant to become abusive to the resident manager and threatening and obstructive to the tradespeople. The *Residential Tenancy Act* provides remedies for tenants who have been improperly inconvenienced by repairs; it does not justify or condone behaviour like the tenant's.

The resident manager's testimony about how the tenant treats her was reinforced by the tenant's testimony and conduct during the hearing. I find that his demeanour and conduct towards her is disrespectful, aggressive and threatening.

Finally, I find, on a balance of probabilities, that the tenant did damage the mailbox.

Having considered all of the evidence I find that the landlord has proven the grounds stated on the notice to end tenancy. The 1 Month Notice to End Tenancy for Cause

dated March 5, 2014 is a valid notice. Accordingly, the tenant's application is dismissed.

Section 55(1) of the *Residential Tenancy Act* provides that if a tenant makes an application to set aside a landlord's notice to end a tenancy and the application is dismissed, the dispute resolution officer must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, the landlord makes an oral request for an order of possession.

The landlord did make an oral request for an order of possession. The effective date of the notice is April 30, 2014 and the tenant has paid his rent until that date. The landlord is granted an order of possession effective 1:00 pm, April 30, 2014.

Conclusion

The tenant's application is dismissed. The landlord is granted an order of possession effective 1:00 pm, April 30, 2014. If necessary, this order 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: April 15, 2014

Residential Tenancy Branch

