



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a *One Month Notice to End Tenancy for Cause* (the "Notice") issued March 5, 2014.

It was determined that the Tenant served the Landlord with the Notice of Hearing documents on March 14, 2014.

The Landlord provided late evidence to the Residential Tenancy Branch and the Tenant. I asked the Tenant if he required more time to review the Landlord's evidence and he indicated that he wished to proceed with his application.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The Landlord's witness gave the following affirmed testimony:

- The witness is a police officer, who supports evicting the Tenant.
- The Tenant is being monitored by the Chronic Offender's Unit and has a history of victimizing elderly people.
- The Landlord approached the police because of problems that the elderly occupants in the rental property are having with the Tenant.
- The Tenant is pleasant when not using drugs, but when he is using and needs money, his behaviour becomes unpredictable.
- The police are willing to work with the Tenant to find a more suitable place to live.
- The witness has no first-hand knowledge of any incidents involving the Tenant and other occupants in the building.

The Landlord's agent gave the following affirmed testimony:

- The Tenant is harassing elderly occupants in the rental property, asking for money. He has physically assaulted some of the occupants.
- Just after the New Year, 2014, the Tenant approached a woman in suite 104. When she refused to give him money, he sprayed her in the eyes with air freshener.
- At the beginning of February, 2014, the Tenant approached another elderly occupant (suite 335) for money. When she refused, he pushed her and she fell down some stairs.
- The Tenant loses self control, and the other occupants in the building are afraid of him and afraid to give verbal testimony.
- The Landlord provided a copy of a petition in evidence, which is signed by 6 other occupants ranging in age from 58 to 88 years old.
- The Landlord asked for an Order of Possession effective June 1, 2014.

The Tenant gave the following affirmed testimony:

- The Tenant stated that he has done nothing wrong, and has certainly not done anything criminal as alleged by the Notice.
- The Tenant submitted that the evidence provided by the Landlord is hearsay and cannot be relied upon.
- The Tenant stated that he is not a threat to anyone and denied that he sprayed a woman in the face with air freshener or pushed another woman, causing her to fall down some stairs.
- The Tenant does not wish to move out of the rental property.

Analysis

The Landlords seek to end the tenancy because the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and 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 and jeopardized a lawful right or interest of another occupant or the landlord.

I find that there is insufficient evidence that the Tenant has engaged in illegal activity. The two women who were allegedly assaulted did not give evidence, orally or in writing, and therefore the Tenant did not have an opportunity to cross examine them or provide his own version of events. The Tenant denied assaulting the women.

However I find that there is sufficient evidence, on the balance of probabilities, that the Tenant has significantly interfered with or unreasonably disturbed other occupants. I make this finding based on the following reasons:

- Six elderly occupants of the rental property signed a petition stating that the Tenant has asked them for money and become angry when they refused, screaming and yelling at them.
- The Tenant's own behaviour at the Hearing was unpredictable. For some of the time he was polite and pleasant, but his demeanour would change and he became easily agitated. The Tenant interrupted me 7 times throughout the Hearing and I had to caution him about his behaviour because it was rude and disruptive.

I find that the Tenant has significantly interfered with other occupants and that the Landlord's Notice is a valid notice. The Landlord has a responsibility to the other occupants under Section 28 of the Act to provide them with freedom from unreasonable disturbance. I dismiss the Tenant's application to cancel the Notice to End Tenancy.

Section 55(1) of the Act states:

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.

Therefore I find that the Landlord is entitled to an Order of Possession. The Landlord sought the Order to be effective June 1, 2014.

Conclusion

The Tenant's application is dismissed without leave to re-apply.

I hereby provide the Landlord an Order of Possession **effective 1:00 p.m., June 1, 2014**. This Order must be served on the Tenant and 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: May 02, 2014

Residential Tenancy Branch

