



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COUNTRY SENIORS COMMUNITY
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: OPC, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession to terminate the tenancy based on a One Month Notice to End Tenancy for Cause under section 47 of the Act dated June 19, 2014. The Notice and purports to end the tenancy on July 31, 2014 and had never been disputed by the tenant.

The hearing was also to deal with a cross application by the tenant seeking an unspecified resolution.

The landlord was present and participated in the hearing. Despite being served with the Notice of Hearing documents in person on July 21, 2014, the tenant did not appear.

Therefore, the tenant's cross application is dismissed and the hearing on the landlord's application seeking an Order of Possession will be conducted in the tenant's absence.

Preliminary Matter

The landlord has requested an order to end the tenancy for cause under section 47 of the Act. In the same application, the landlord has also made a claim for 1,282.50 for compensation under section 67 of the Act.

The Residential Tenancy Rules of Procedure, Rule 2.3 states that, if, in the course of the proceeding, the arbitrator determines it appropriate to do so, the officer may dismiss unrelated disputes contained in a single application with or without leave to reapply.

I find that the portion of the landlord's application relating to a monetary claim pertains to an unrelated dispute that is not connected with the One Month Notice to End Tenancy for Cause issued by the landlord under section 47 of the Act.

For this reason, I hereby sever the monetary claim from the main issue before me, that is whether the landlord is entitled to end the tenancy. Accordingly, this hearing will only deal with the One Month Notice to End Tenancy. The monetary claim is therefore dismissed with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the section 56 of the Act?

Background and Evidence

The tenancy began in July 2013 and the rental unit is located in a senior's complex is

The landlord testified that they received numerous verbal and written complaints from residents and their visitors alleging that the tenant had been witnessed exposing himself by appearing unclothed in the window of his suite and had been making obscene phone calls to some of the female residents or their guests.

The landlord testified that the tenant was served with a One Month Notice to End Tenancy for Cause, which the tenant has not filed to dispute.

However, the conduct still continued thereafter, and the landlord now seeks an Order of Possession based on the Notice.

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated June 19, 2014. Also in evidence were copies of written complaints from residents in the complex describing the tenant's inappropriate conduct and copies of warning letters from the landlord to the tenant, cautioning the tenant about his behavior.

The landlord testified that the tenant's phone number was displayed during the phone calls and this identified the tenant as the caller. The landlord pointed out that residents had contacted police and the police met with the tenant.

Analysis – Notice to End Tenancy

In the case before me I find that the conduct of the tenant did significantly interfere with, and unreasonably disturb other occupants in the complex, who had witnessed the tenant indecently exposing himself or who were subjected to the disturbing phone calls.

I find that the fact that this tenant failed to dispute the One-Month Notice to End Tenancy for Cause terminating the tenancy effective July 31, 2014 also entitles the landlord to be granted an Order of Possession under section 47(5) of the Act

Given the above, I hereby grant an Order of Possession in favour of the landlord effective 2 days after service. The tenant must be served with the order of possession. Should the Tenant fail to comply with the order, it may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is entitled to be reimbursed the \$50.00 cost of filing the application and I order that this amount be retained by the landlord from the tenant's security deposit.

Conclusion

The landlord is successful in the application and is granted an Order of Possession under section 55 of the Act. The monetary portion of the landlord's application is dismissed with leave to reapply. The tenant's application is dismissed without leave.

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: August 27, 2014

Residential Tenancy Branch

