



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking more time to dispute a notice to end tenancy than provided in the *Residential Tenancy Act*, for an order cancelling a notice to end tenancy for cause, and to recover the filing fee from the landlords for the cost of the application.

The tenant and both landlords attended the hearing, and each gave affirmed testimony. The tenant was also assisted by an Advocate. The landlord called one witness and the tenant called 2 witnesses. The parties also provided evidentiary material in advance of the hearing to the Residential Tenancy Branch and to each other. The parties were given the opportunity to cross examine each other and the witnesses on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Should the tenant be permitted more time than set out in the *Act* to dispute a notice to end the tenancy issued by the landlords?
- Should the notice to end tenancy for cause be cancelled?

Background and Evidence

The first landlord testified that this month-to-month tenancy began at the beginning of January, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$750.00 per month is payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit in the amount of \$375.00 and the tenant was to pay a pet damage deposit in the amount

of \$100.00 but refused, paying only \$70.00 saying that she was withholding \$30.00 for the cost of paint for touching up scuffs on walls. The landlords didn't agree, but didn't dispute it. Both deposits are still held in trust by the landlords. The landlord stated that a written tenancy agreement has been signed by the parties but a copy has not been provided for this hearing. The rental unit is an apartment in a complex containing 6 buildings with 4 rental units in each building.

The landlord further testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause on July 22, 2014 by registered mail. A copy of the notice has been provided and it is dated July 22, 2014 and contains an expected date of vacancy of August 31, 2014. The notice states that the reason for issuing it is: "The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord." Another notice to end tenancy was given to the tenant about 4 or 5 days prior, but the tenant ripped it up.

The landlord also testified that there have been repeated reports from the landlord's caretaker and a neighbouring tenant that the tenant has harassed other tenants using inappropriate behaviours, and threatening behaviour towards the caretaker. The caretaker was trying to sort out the issues between the tenant and the tenant's neighbour and had a discussion with the tenant about the tenant's cat. The tenant had strung a string and a sign in the common area preventing other tenants from walking past the tenant's apartment door with a "Beware of Cat" sign. Letters of complaint have been provided by the landlords which are written by the landlord's caretaker and other tenants. Further, the tenant embarrassed another tenant in front of his guests; after he coughed, the tenant asked him if he was a smoker and then asked him how long he planned to have a cold. In another situation, the tenant tried to push in the door of another tenant and threatened to destroy her phone. The tenant tried to slander her to her boss repeatedly to the point where she felt her job was jeopardized. The tenant has also accused other tenants of smoking pot. The landlord does not reside in the same community as the rental unit and relies on information provided by the landlord's caretaker and letters and calls from other tenants in the rental complex. Three tenants and the landlord's caretaker have provided letters to the landlords, and the 3 tenants all reside in close proximity to the rental unit.

The landlord further testified that the landlords ask for regular inspections of the units, and the landlord is concerned about obstacles placed by the tenant. The behaviours have been extreme to the point of police involvement, concerns of physical harm and harassment of people and guests. The tenant shows no respect for process by refusing inspections of the rental unit and disputing the notice to end tenancy late. The tenant

disputed it late, which caused significant delay and another tenant who had arranged to move in had to be forced to find another place to live.

The landlord also testified that the caretaker has been employed by the landlords for quite a few years and there have been no complaints. It would be out of character for the caretaker to take sides or show prejudice; that would be inconsistent with other experiences. Further, the caretaker's experience is corroborated by the letters and comments from at least 3 other tenants. They describe similar behaviours of harassing, intimidating and inappropriate behaviour which are extreme and the landlord is concerned for the safety and well-being of other tenants. He believes that the tenant has clearly targeted certain tenants with aggressive and harassing behaviour. The landlord did speak to the tenant on the phone about some of the issues, but the landlord did not believe her response was rational. Other tenants took photographs to document the behaviour of the tenant.

The second landlord testified that the caretaker has been employed for 10 years with no complaints from other tenants, and the landlords trust her.

The landlord's witness is the landlords' caretaker, and testified that when the tenant's neighbour moved in, the tenant was afraid that the neighbour's tiny dog would eat the tenant's cat. That's when the witness first detected animosity and the neighbour didn't know why. The witness further testified that the first that she had concerns about the tenant was on June 27, 2014 when the witness asked the tenant to keep her cat on a leash on her side of the steps, and the witness drew a chalk-line on the floor of the common area. The tenant was angry and didn't want the witness to stand in front of her apartment saying it was her property. The witness also talked to the strata president who instructed the witness to talk to the tenant about the string, and the witness talked to the tenant and then the witness removed it. The witness read the strata rules, and the tenant became angry, ripped the rules from her hand and tore it to threads, throwing it at the witness. The tenant told the tenant to get off her property, but the witness was on the sidewalk, common property. Another resident witnessed it and told the witness that she was afraid the tenant would assault her.

In another situation the witness had a meeting with neighbours on the sidewalk which became very intense by the tenant's behaviour, and tenants there tried to talk to her, but the witness tried to stay away from the tenant after that. The police were called during the evening of August 8, 2014.

The witness had served the tenant a notice to end tenancy by leaving it at the tenant's door, and 3 days later a copy was sent by regular mail to ensure the tenant received it. The notice contained an expected date of vacancy of August 31, 2014. For some

reason, the tenant thought that the neighbour had something to do with it, and the tenant tore it up and put it in front of the neighbour's door with a note that said "Stick it up your ass bitch." Police were called because the tenant was verbally attacking the neighbour, knocking on her windows and swearing. The witness does not reside in the complex but went there after the police arrived, having received a call from the neighbouring tenant.

The witness also testified that another tenant has provided a letter showing that he feels the tenant could harm him. Tenants have told the witness they feel very uncomfortable, and awkward to the point of preventing one of them from having guests.

The tenant agrees that she deducted \$30.00 from the deposit that she was required to pay.

The tenant testified that she received the notice to end the tenancy in the mail and then received another at the door, which she ripped up. The tenant found another place to live but then after thinking it over and talking to other people, the tenant decided that it needed to be dealt with and it would be the right thing to do to dispute the notice. The tenant was not aware that she had to dispute the notice within 10 days, and was not emotionally ready to dispute it.

The landlord's caretaker told the tenant that other tenants had been complaining about her cat. The tenant then saw a neighbour video taping her and the tenant ran outside, but the neighbouring tenant ran inside her unit. The tenant knocked on her window and told her to stop. The tenant felt provoked and says she is sorry she knocked on the window and door. The neighbour's dog was lunging at the tenant's cat; the tenant asked the neighbour to walk her dog on the other side. Then other neighbours got involved and the tenant walked away.

The tenant also denies harassing or annoying other tenants, or telling the landlord's caretaker to get off her property, and the landlord's caretaker has definitely taken sides. The tenant has been a good tenant and even helped the neighbour and 2 others move in. The tenant also denies stalking the neighbour at her place of employment; the neighbour works at the dollar store and the tenant shops there. She stated that 80% of the allegations are inaccurate. The tenant agrees she over-reacted but felt bullied. Since the police were there, it's been peaceful.

The tenant has re-homed her cat, which seems to be where the issue originated. She left the "Beware of Cat" sign as a joke.

The tenant's first witness testified that she was present when the police arrived on August 8, 2014. The police said she was going to tell both tenants that if the confrontation continued, one or both of them would be leaving in handcuffs and that she couldn't believe she had been called to such an incident.

The witness is also on strata council and has heard comments from other neighbours that they feel sorry for the tenant and that she has not been treated well by the landlord's caretaker. The witness has never heard any complaints, but only compliments about the tenant for planting flowers and making the area look pleasant. The witness believes that the caretaker can bully and did bully the tenant and stated that it's difficult to determine that she is impartial. The problem should have been mediated at the start.

The tenant's second witness testified that he resides across from the tenant's apartment, which is about 30 feet away. The witness has been residing there for 4 months and it was over a month before the tenant spoke to him; he stated that the tenant is very shy and a quiet person. He has never found the tenant to be belligerent, however he did witness the tenant rip up documents and throw them on the ground. He testified that the tenant by no means looked like she was going to attack anyone, nor has he heard the tenant yell at others. He testified that the tenant said, "That's bullshit," and raised her voice, made no threats and walked away.

The witness also testified that the tenant always keeps her cat on a leash, and he testified that an injustice was being done; that there seems to be a vendetta against the tenant. It seems others blame the tenant for disclosing that another smoked pot, but the witness does not believe that the tenant disclosed that at all. The landlord's caretaker even told the tenant that she had too many flowers. He stated that the tenant got rid of her cat to keep the peace.

Analysis

Firstly, the *Residential Tenancy Act* states that a tenant has 10 days from the date of service to dispute a 1 Month Notice to End Tenancy. There is no dispute that the notice was served on the tenant on July 22, 2014 by registered mail, which is deemed to have been served 5 days later, or July 27, 2014. The tenant filed the application for dispute resolution on August 11, 2014, clearly 15 days beyond the 10 day limit. In order to increase the time there must be a compelling reason. In this case, the tenant testified that she found a different place to live and then decided after speaking with other people that she needed to stand up for herself and changed her mind. She also stated that she was not emotionally able to dispute the notice, and that she didn't know she only had 10 days. I don't accept that; the notice clearly advises the tenant of a tenant's

rights and obligations. I find that changing her mind 15 days after the latest date that the tenant could legally dispute the notice would be prejudicial to the landlords.

The tenant also claims that she was bullied by the landlord's caretaker, and I find that the tenant, the landlord's caretaker and the neighbouring tenant have all acted in a very childish manner. A landlord is required to ensure that the quiet enjoyment of other tenants is protected, and the tenant has behaved in a manner that has contravened that. The tenant admitted getting angry but didn't dispute the notice. Whether the behaviour was provoked or not, I find that the landlord had cause to issue the notice to end tenancy.

The tenant's application is hereby dismissed.

Conclusion

For the reasons set out above the tenant's application is hereby dismissed without leave to reapply.

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: October 24, 2014

Residential Tenancy Branch

