



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CARMARGUE INVESTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

The landlord did not make any applications at this hearing and made no request for the issuance of any orders at the hearing.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Service

The landlord's agent provided sworn, undisputed testimony that on September 30, 2014, he personally served to the tenant the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice). The tenant confirmed receipt of the 1 Month Notice. On the basis of this evidence, I find that the tenant was duly served with the 1 Month Notice pursuant to section 88 of the *Act*.

The tenant testified that she served the landlord with the dispute resolution package, including Notice of Dispute Resolution hearing on October 2, 2014 in person. The landlord's agent confirmed receipt of the dispute resolution package. On the basis of this evidence, I find that the landlord was duly served with the dispute resolution package pursuant to section 88 of the *Act*. The tenant's application was made within the prescribed time to respond to a notice to end tenancy.

The tenant testified that she served the 81 pages of documentary evidence to the landlord by personally serving the landlord's agent on October 24, 2014. The landlord's agent confirmed receipt of the materials. On the basis of this evidence, I am satisfied that the landlord was served with the evidence pursuant to section 88 of the *Act*.

The landlord's agent testified that he served the 45 pages of documentary evidence to the tenant by personally serving the tenant on November 7, 2014. The tenant confirmed receipt of those materials. On the basis of this evidence, I am satisfied that the tenant was served with the evidence pursuant to section 88 of the *Act*.

Background and Evidence

This month to month tenancy began on April 1, 2008. The current rental amount is \$879.00 per month payable on the 1st day of each month. The landlord holds a \$387.50 security deposit paid April 1, 2008. The landlord's agent testified that the 1 Month Notice was issued on the basis that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property pursuant to section 47(1)(d)(i) of the *Act*.

The landlord's agent referred to the landlord's documentary submissions, specifically relying on;

- A warning letter provided to the tenant and sent by registered mail and dated January 22, 2013;
- A warning letter provided to the tenant personally on September 17, 2014;
- 17 letters of complaint from other tenants with respect to this tenant dated September 3, 2014; September 12, 2014; September 18, 2014; September 19, 2014; and letters from 2010 and prior;
- Correspondence from the tenant to other occupants of the residential premises ranging from 2010 and prior;
- Response letters from the landlord to the tenant; and
- Letters of complaint from the tenant to the landlord ranging in dates from December 2008 to present.

The landlord's agent testified that the tenant has, since the beginning of her tenancy in 2008, had disputes with other residents. The landlord claims that the tenant is a nuisance to the other residents. He testified that she has submitted many complaints to the landlords and approached other residents directly with complaints. The landlord's agent referred to a letter by a current tenant who claims that the tenant has used

threatening and abusive language towards her. The landlord's agent referred to an incident where the tenant yelled from her balcony and made inappropriate comments to the occupants on the neighbouring balcony. The landlord's agent testified that the tenant exhibits this type of behaviour regularly. The landlord's agent also testified that he believes he has lost tenants due to the actions of the tenant.

The main complaint by the tenant is that residents smoke on the residential property. She claims that this smoke enters her suite, affecting her adversely. The landlord testified that the tenants who smoke cigarettes do so in designated areas, in accordance with city by-laws. The tenant confirmed that often the tenants who are smoking are doing so in accordance with city by-laws but she is still bothered by the smoke.

The tenant testified with respect to the disputes she has with other residents. She listed a myriad of infractions by those residents and the details of the disputes between them. Her complaints include but are not limited to; smoking on and off the property; talking loudly at night; and cooking that smells badly to her. The tenant stated that the landlord's allegations of her poor behaviour and the complaints against her are untrue.

Analysis

Subparagraph 47(1)(d)(i) of the Act permits a landlord to terminate a tenancy by issuing a 1 Month Notice in cases where a tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. This dispute resolution application by the tenant requires the landlord to provide sufficient evidence, on a balance of probabilities, that there is cause to end the tenancy.

In this matter, I find the landlord has provided sufficient evidence, both in oral testimony and in documentary evidence, to show that the tenant unreasonably disturbs other residents. The evidence shows that she regularly engages in disputes with other tenants; she creates significant aggravation to the landlords by filing vexatious complaints and letters; and she has been unreasonable in her actions and behavior towards other residents.

I accept the landlord's evidence that the property manager warned the tenant, orally and in writing, on several occasions with respect to her disruptive behavior. As provided by the *Act*, the landlord must provide an environment to all tenants free of interference and disturbance. The landlord's agent testified that he has taken steps to mediate disputes between tenant and other tenants. I find the landlord has made substantial effort to accommodate tenant. The landlord cannot place one tenant's needs over the collective

needs of the residential premises and its occupants. The landlord has met its obligations and has provided sufficient evidence to support an end to the tenancy.

I have carefully considered the tenant's documentary submissions and oral submissions with respect to her disturbance by other residents. I find these disturbances were not unreasonable within an apartment setting. I find, however, that the tenant's ongoing behavior has caused an unreasonable disturbance to other residents and the landlord, pursuant to section 47 of the *Act*.

Conclusion

I dismiss the tenant's application to cancel the landlord's 1 Month Notice. On this basis, I find that this tenancy ended on October 31, 2014, the effective date on the landlord's 1 Month Notice.

I dismiss the tenant's application to recover her filing fee 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: November 26, 2014

Residential Tenancy Branch

