



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OPC

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated February 27, 2015 to be effective March 31, 2015. Both parties were present at the hearing.

SERVICE:

I find that the Notice to End a Residential Tenancy was served on the door of the tenant. The landlord admitted service of the application for dispute resolution.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy began on February 1, 2015 on a fixed term lease. The rent is \$ 1,000.00 a month and the tenant paid a security deposit of \$500. The landlord served the Notice to End Tenancy pursuant to section 47 of the *Residential Tenancy Act* (the Act) for the following reasons:

- a) The tenant or persons permitted on the property by her
 - (i) have significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - (ii) have seriously jeopardized the health and safety of other occupants or the landlord;
 - (iii) have put the landlord's property at significant risk
- b) The tenant or person permitted on the property by her has caused extraordinary damage to the landlord's property and there are an unreasonable number of occupants in the unit.

The landlord and agent gave evidence that the daughter and son of the tenant were significantly interfering with and unreasonably disturbing other occupants. They recounted many instances where the daughter presses the interphone of numerous residents to get admittance to the building and also harasses them on the front steps, although the rule is that residents are not to admit strangers. They said the tenant

promised not to allow the daughter back into the building but she continues to do so. She and the son are both known to the Police and the Police said the daughter is a danger; residents are afraid of her. The resident manager said that she threatened to kick in her teeth and threw a lighted cigarette at another resident. They said the tenant and her family have also left bags of garbage in the hallway, the daughter smokes which is a risk and the son is not permitted in the building according to Police.

The tenant said her son and daughter have some mental health issues and it is discriminatory to not allow them in the building. She said the Notice was based on one incident, then agreed there were more when the landlord pointed out that there were several incidents and they were continuing and escalating. The landlord noted they have a video of the daughter attacking someone. The tenant said they have not damaged the walls and she is willing to get the carpets cleaned as there are some spots. She said the ban on her son was lifted but when the manager pointed out that he was arrested again just yesterday, she said that was a mistake.

In evidence is the tenancy agreement, the Notice to End Tenancy, photographs and a letter from the President of the Strata outlining the problems and several letters from residents. There is also a letter from the tenant agreeing to vacate on March 31, 2015 but she did not do so.

Analysis:

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes it.

The onus is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy. I find the weight of the evidence is that the daughter and son of the tenant who are permitted on the property by her have significantly interfered with or unreasonably disturbed other occupants or the landlord with their harassing behaviour on the interphone and using foul language to abuse them. I find the daughter's threatening remarks, her violent outbursts and cigarette smoking indoors in this non smoking building have seriously jeopardized the health and safety of other occupants or the landlord and have put the landlord's property at significant risk

I find the tenant tended to minimize the effects of her family's behaviour. As discussed in the hearing, other residents have a right to peaceful enjoyment of their home pursuant to section 28 of the Act and if some persons have mental health issues, it is good cause to end the tenancy if their mental health issues cause them to significantly interfere with the peaceful enjoyment of other residents. I find it is not discriminatory

against this tenant and her family for the landlord to serve the Notice to End Tenancy for cause when her family are violating the provisions of section 28 of the Act. I dismiss the tenant's Application in its entirety.

Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. The landlord has made this request at the hearing. As a result I granted the landlord an Order for Possession. The parties agreed to a move-out date of April 30, 2015.

Conclusion:

I dismiss the Application of the tenant. I grant the landlord an Order for Possession effective April 30, 2015. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application without recovery of the filing fee.

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 16, 2015

Residential Tenancy Branch

