



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPC

Introduction

This hearing dealt with applications from both the landlord and the tenant under the *Residential Tenancy Act* ("the *Act*"). The landlord applied for an Order of Possession for Cause pursuant to section 55 after issuing a 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") and the tenant applied for cancellation of the landlord's 1 Month Notice pursuant to section 47.

The tenant did not attend. Two representatives for the landlord attended and were given full opportunity to be heard, to present evidence and to make submissions. Landlord DS provided evidence that a 1Month Notice to End Tenancy for Cause was personally served to the tenant on April 7, 2015. Landlord DS gave sworn testimony that the tenant was served with the Application for Dispute Resolution hearing package including the Notice of Hearing by registered mail on April 17, 2015. Landlord DS provided the Canada Post tracking number with respect to this mailing. Pursuant to section 88 of the *Act*, I find the tenant duly served with the 1 Month Notice. Pursuant to section 89 and 90 of the *Act*, I find the tenant deemed served with the dispute resolution hearing package on April 22, 2015, 5 days after its registered mailing.

Rule 10.1 of the Rules of Procedure provides as follows:

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the tenant/applicant's participation in this hearing, I order the tenant/applicant's application to cancel the notice to end tenancy dismissed without liberty to reapply.

Issue to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

Landlord DS testified that this tenancy began on June 1, 2014 on a month to month basis. The rental amount of \$375.00 was payable on the first of each month. Landlord DS testified that the landlord continues to hold a \$187.50 security deposit paid by the tenant at the start of the tenancy. Landlord DD testified that the tenant has not paid rent since April 2015.

The landlord has applied for an Order of Possession for Cause. The landlord relied on three grounds in their application pursuant to section 47(1) of the Act;

Tenant has allowed an unreasonable number of occupants in the unit;

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord; and*

Tenant has 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;*

Landlord DS testified that the tenant has been warned several times after incidents affecting the other occupants of the residential premises. He submitted a copy of log notes he compiled contemporaneously with disturbances in the building, highlighting those by the tenant. They included documentation of complaints from another tenant of noise and a "stand-off" (argument) between the tenant and another resident in the common area of the building. Landlord DS testified that, on one occasion, another resident knocked on the tenant's door to ask him to quiet down as it was late in the evening. Landlord DS testified that the tenant chased the other resident back to his apartment where the other resident locked himself in his unit. Landlord DS testified to an incident where a guest of the tenant's left the tenant's unit completely naked and very intoxicated. Landlord DS testified that, on more than one occasion, the police have been called to address incidents involving the tenant.

The landlord's evidence included three letters dated March 23, 2015; April 3, 2015; and April 17, 2015 warning the tenant that should his disruptive behaviour continue, the landlord may issue a notice to end tenancy. Landlord DS testified that those letters were all placed in the tenant's secured mailbox in the residence.

Both representatives of the landlord testified that the tenant has been violent and argumentative regularly using foul language in dealing with both the staff and other residents at the premises.

The landlord issued a 1 Month Notice to End Tenancy for Cause. The landlord applied for an Order of Possession. Both landlords testified that they have attempted to resolve tenancy matters with the tenant. They both testified that they have tried to contact him, and that he fails to respond. They both testified that, on seeing him, they will attempt to arrange to meet to

resolve the dispute or address the outstanding issues and that the tenant will merely yell and swear at them.

Analysis

Based on the landlord's undisputed testimony at this hearing and the landlord's documentary evidence submitted prior to this hearing, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. Landlord DS provided testimony and documents illustrating tenant behaviour that disturbed both the landlord's representatives as well as the other residents of the premises. The landlord also submitted copies of warning letters which both support Landlord DS's testimony and illustrate that the landlord attempted to take remedial steps in addressing this tenancy.

I find that there is evidence, on a balance of probabilities that supports the landlord's claim that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The tenant made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice but did not attend the hearing to make submissions with respect to his application. The tenant's failure to attend this hearing and address his application led to the dismissal of his application. Therefore, as I have found the landlord has sufficient grounds for the 1 Month Notice, the tenant is required to vacate the premises. I find that the landlord is entitled to a 2 day Order of Possession.

Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

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: June 3, 2015

Residential Tenancy Branch

