



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

This hearing convened as a result of a Tenant's Application for Dispute Resolution in which the Tenant sought to cancel a Notice to End Tenancy for Cause issued * (the "Notice").

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. The participants provided affirmed testimony and the parties were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and witnesses, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Residential Tenancy Branch Rules of Procedure Rule 11.1 provides that when a Tenant applies to set aside a Notice to End Tenancy, the respondent Landlord must present their case first.

At the outset of the hearing the Landlord confirmed that should the Tenant's application be dismissed, that they sought an Order of Possession pursuant to section 55 of the *Residential Tenancy Act*.

Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Landlord entitled to an Order of Possession?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement dated * and which indicated that *

LANDLORD'S EVIDENCE

Both Y.B., the Landlord's Manager of Tenant Relations, and R.M., the Landlord's Director of Property Management testified on behalf of the Landlord.

The tenancy began on October 1, 2014. The rental unit is located in a 100 unit rental building which houses, according the Landlord, low income and vulnerable seniors. The Tenants rent is subsidized such that his portion of the rent is \$366.00 per month.

The Landlord stated that they received a noise complaint about the Tenant shortly after the tenancy began. This complaint related to the volume of the Tenant's television on October 17, 18 and 19, 2015. Introduced in evidence was a copy of the warning letter dated October 20, 2014 regarding this complaint. The writer, R.M. confirms that the Tenant agreed to keep the noise down.

The Landlord testified that in January of 2015 they received three more complaints about the Tenant. The Landlord stated that the nature of these complaints were that the Tenant has people "coming and going" all the time from his rental unit. Introduced in evidence was a copy of a letter dated February 5, 2015 wherein R.M. writes that they received a written complaint about the Tenant's "guest being in the hallways and other common areas in a state of inebriation" on January 28 and January 29, 2015. In this letter R.M. also notes that the police were at the rental unit looking for the Tenant or his guests on February 1.

Also introduced in evidence was an incident report dated April 3, 2015 wherein the caretaker, M.D., writes that he has had to clean up feces in the 2nd floor garbage chute room and that he suspects it is a guest of the Tenant who is responsible.

The Landlord also introduced in evidence a letter dated March 5, 2015 which they characterized as the "third warning letter". In this letter Y.B. writes as follows:

"We are once again receiving reports of incidences happening at the building in relation to your guests. Tenants are responsible for the conduct of their guests

while on the property. Your tenancy will be in jeopardy if your guests continue to cause disturbances at the building and you may be given a One Month Notice to End Tenancy for Cause."

The Tenant testified that he then went to the police and made a report about V.P., the person he alleges was responsible for the disturbances alluded to in the March 5, 2015 warning letter.

Also introduced in evidence were the following incident reports:

- *March 17, 2015:* in which the writer, M.D., writes that one of the Tenant's guests parked overnight in the visitor parking on March 17, 2015 and March 20, 2015. M.D. writes that he spoke to the Tenant's guest and *"gave him a final notice re towing"*.
- *June 2, 2015:* in which the writer, M.D., writes that he has received complaints from a fellow occupant of the rental building, A.A., who expressed concerns about dogs barking in the hallways and entering the rental unit via the Tenant's window. The report goes on to note that the complainant also complains of *"intoxicated strangers trying door knobs on the 2nd floor"*.
- *June 5, 14, 2015:* in which the writer, A.A., writes

"I was sleeping when someone banged on or fell against my door waking me – then I heard the door of 214 close."

On June 14 2 men somehow found their way into the building and were knocking on doors looking for [the Tenant]. he come out into the hallway hearing the commotion and admitted them to his apartment"

[Reproduced as Written]

- *June 23, 2015:* in which the writer, M.D., writes that he received three verbal complaints about loud party noise from the rental unit and the Tenant and his guests drinking on the 7th floor sundeck.
- *June 25, 2015:* no writer is noted although the signature appears to be the same as M.D.'s. The following is noted:

"small dog tied to railing at back of building people coming and going from suite window also young intoxicated man coming to back door at [name

withheld] and letting people (who own the dog) in to building. Caretaker has been watching video surveillance at last 6 people with various forms of luggage have come and gone in the last 2 days all from [rental unit].”

[Reproduced as Written]

- *June 26, 2015:* in which the writer, J.M. writes:

“[rental unit] has had people all hours of the day + night backing on his _____ window, partying, music + a lot of noise”

- *Monday:* in which the writer, J.M. writes:

“banging on his side window at 9 am ruffly. This goes on all day. all the time.”

[Reproduced as Written]

- *July 6, 2015:* in which the writer, M.D., writes that a guest of the Tenant has been bringing shopping carts full of belongings to the rental building.
- *July 13, 2015:* in which the writer, M.D., writes that other occupants of the rental building have made complaints about people going in and out of the rental unit window. Apparently M.D. spoke to the Tenant who advised he had lost his keys and would pay for their replacement. Attached to the Incident Report was a hand written note from the Tenant confirming his intention to pay for the replacement keys.
- *July 17, 18, and 19, 2015:* in which the writer, M.D., writes that he received a complaint from A.A. that the Tenant’s guests were knocking on other rental unit doors asking for cigarettes and use of the bathroom. M.D. writes that he also found cigarette butts in the hallway. M.D. notes that this incident was witnessed by a man identified only by his first name “R.”

Y.B. confirmed that she issued the 1 Month Notice to End Tenancy for Cause on June 5, 2015 with an (the “Notice”). The Landlord testified that the Notice was posted to the rental unit door on June 5, 2015. Section 90 of the Rules of Procedure provide that documents served in this manner are deemed served three days later, such that I find the Tenant was served as of June 5, 2015. The effective date of the Notice was July 31, 2015.

The reasons cited in the Notice were 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.

In addition to the above evidence, both of the Landlord's representatives testified. R.M. stated that the Tenant has "not editing" in terms of who he brings to the rental building.

R.M. confirmed that the building is pet free, yet the Tenant brings guests to the rental building who have pets, and he has allowed these pets to be left alone in his rental unit. According to R.M., the Incident in which a complaint was made about a barking dog, involved the Tenant bringing a complete stranger, her dog and her son, to the rental unit. Evidence submitted by the Tenant confirms he did not know these individuals.

R.M. reiterated that the building is occupied by vulnerable low income seniors, and that the Tenant brings people to the rental building who disturb the other occupants and make them feel unsafe. R.M. further testified that security cameras were installed to improve the security of the building, but that the Tenant circumvents this by bringing guests in through his window.

Section 47 (f) provides that a Tenant may dispute a notice to end tenancy for cause by making an application for dispute resolution within 10 days after the date the Tenant receives the notice. In this case, the Tenant was deemed served June 8, 2015 and as such had until June 18, 2015 to make his application.

The Tenant made his application for dispute resolution on June 16, 2015 such that he applied in time.

In response to the Landlord's claims the Tenant testified as follows:

- He purchased headphones to deal with any noise complaints originating from his television volume.
- He has no information about the feces in the garbage chute.
- The dog that he had in his rental unit was a small dog, and that I got away from him when he let it out to "relieve itself".
- There are no signs indicating the building is pet free and other tenants are allowed to have pets, or have guests with pets.

- The woman he met on the street was a stranger, and she left her dog at his rental unit because she was trying to contact her family.
- The Landlord's allegations that he or his friends have a drinking problem is "created" as he only has an occasional alcoholic beverage and is not constantly intoxicated as claimed by the Landlord.
- His guests come to the back window and bang on other occupant's doors because they are trying to find the Tenant. Further, he had a heart attack recently and his friends worry about him and will bang on the doors if he doesn't answer.
- He entered the back window once because he had lost his keys.
- Only once was a friend parked overnight in visitor parking.
- He has no knowledge of people wandering the hallways, and wasn't even home during one of the evenings which resulted in an Incident Report.
- The female friend who was drunk and causing a disturbance is a friend he has had for many years who has a serious alcohol problem. When the Landlord brought it to his attention that she was disturbing others, he "got a no contact order on her".
- He has asked to view the security videos on numerous occasions and the Landlord refuses.
- He feels targeted by M.D.

In reply, the Landlord stated that the surveillance cameras only depict the ground floor entrance, not the area in which the rental unit is located. Further, the Landlord stated that the Tenant uses his back window as a point of entry/exit so frequently that there is a path on the grass and the building is soiled from dirty shoes and people climbing into the window. Finally, the Landlord also stated that the Tenant has a very cavalier attitude about the complaints and that when he was served with the Notice he responded "I get to stay another month because I filed" and "I can't control who comes to my unit".

Analysis

In consideration of the above, the testimony of the parties and the evidence filed, I accept the Landlord's evidence that the Tenant's behaviour, as well as the behaviour of his guests has significantly interfered with or unreasonably disturbed other occupants of the rental building. I accept the Landlord's testimony that the occupants of the rental building are vulnerable low income seniors who are reluctant to put their complaints in writing for fear of retribution from the Tenant. That being said, two other such occupants, A.A. and J.M., have provided written complaints about the Tenant and his guest's behaviour.

It is clear that in a relatively short tenancy, numerous incident reports have been written up which detail the disruptive behaviour of the Tenant and his guests. Further, the Tenant has received three warning letters in a short period of time and has been given the opportunity to correct his behaviour. It is notable that even after being served with the Notice, the Tenant and his guests continued to behave in a way which was disruptive to others.

In sum, I find that the Landlord has met the burden of showing 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's Application to cancel the Notice is dismissed.

As the Landlord made an oral request for an Order of Possession, I must, pursuant to section 55, make that Order. The Order of Possession must be served on the Tenant and will be effective **two (2) days after service**. If necessary, the Order may be filed in the B.C. Supreme Court and enforced as an Order of that Court.

Conclusion

The application is dismissed and the Landlord is granted an Order of Possession.

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 19, 2015

