



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking to cancel a one month Notice to End Tenancy issued for cause.

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

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.

Preliminary Matters

I note that at the end of the hearing the male Tenant began acting in a threatening manner. He indicated the Landlord would have to use a Bailiff to move the Tenants out and it would take one or two months and thousands of dollars. He also stated in a sarcastic tone that, "It will be *really* quiet around here now..." which by his tone of voice appeared to be a threat to actually cause more noise problems at the property.

The Tenants are cautioned that they must keep the peace and avoid conflict with the other occupants of the rental unit property.

I also note that both the male Tenant and the Landlord had to be cautioned about interrupting each other during the hearing.

Issue(s) to be Decided

Is the one month Notice to End Tenancy for cause valid or should it be cancelled?

Background and Evidence

The Landlord testified that on July 4, 2015, she personally served the Tenants with a one month Notice to End Tenancy for cause (the "Notice"). The Landlord testified that she feels threatened by the Tenants, in particular the male Tenant, and had a police officer attend the rental unit with her to personally serve the Notice.

The Notice was given under section 47 of the Act, and indicates that the Tenants or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; or put the landlord's property at significant risk. The Notice also alleges the Tenants have caused extraordinary damage to the rental unit.

The Landlord testified that they have had problems with the Tenants since the Landlord and her spouse purchased the rental unit properties. She testified that the problems escalated after she had served the Notice on the Tenants this summer.

The Landlord testified that when they purchased the property her spouse walked through the subject rental unit and found it to be in rough shape. The Landlord purchased the property sometime in 2011; however, the Landlord who testified today agreed she has not been inside the rental unit.

The Landlord testified that she is under a great deal of stress due to the behaviour of the Tenants and the male Tenant in particular. Most of the complaints regarding the Tenants involve the male Tenant according to her evidence and testimony.

The Landlord testified she does not feel safe going to the rental unit by herself. She testified that she has had numerous phone calls from the people who provided evidence on behalf of the Landlord that the male Tenant has been increasingly yelling obscenities at them since the Notice was issued.

The Landlord alleged that on the day before the hearing the male Tenant backed into a basketball hoop with a vehicle, and knocked the hoop over.

The Landlord testified she is being verbally abused by the male Tenant, since whenever they talk the male Tenant uses foul and abusive language toward her. The Landlord testified that the Tenant has called her, "an F---ing C--t" and that she is very stressed by his behaviour. The Landlord testified that the Tenants call and leave verbally abusive phone messages for her about other occupants at the property.

The Landlord alleges the Tenant displays violent and aggressive behaviour. She testified that on the day the Landlord served the Tenants with the Notice the male Tenant came running out of the rental unit toward her and then stopped quickly when he realized there was a police officer standing with her.

The Landlord alleges the Tenants create a great deal of noise and disruption at the property. She alleged that sometime ago the male Tenant backed a vehicle into a post and knocked it over.

In evidence the Landlord also had letters from four other occupants at the property. These include numerous complaints, including but not limited to those ones described below.

Occupant 1, states in her letter that she lives next door to the Tenants and has lived there for almost six months. She complains in her letter that the male Tenant screams and yells and bangs on the walls at various times throughout the day. She writes that she hears the Tenants yelling and fighting, and the male Tenant swearing at his spouse and children all the time. Occupant 1 writes that in the early morning of July 4, 2015, the male Tenant and female Tenant were having a drinking party and their young children were playing outside until 2:00 a.m. Then, around 3:00 a.m. the male and female Tenant were fighting and screaming and the writer alleges they were physically fighting in front of their screaming children. Occupant 1 further writes that she witnessed the male Tenant throwing a glass bottle at another neighbour. She writes that the male Tenant has walked into her house without invitation when he was intoxicated and threatened to slash the tires on her car. Occupant 1 also writes that the male Tenant has called her son racist names and swears at her and calls her names as well. She writes that since the Tenants got the Notice the male Tenant has been out of control and has verbally attacked her, and has kicked and pounded on her wall so hard that pictures and a clock have fallen off the wall.

Occupant 2, states in her letter that she and another occupant from the property were talking outside and the male Tenant began recording a video of them speaking with his cell phone. When they asked the male Tenant to cease this he became verbally

abusive and swore at them indicating he will do what he wants and then put the recording on Facebook, or words to that effect.

Occupant 3, wrote in his statement that he had purchased a basketball hoop for him and his children to use. He alleges that the male Tenant asked to borrow money from him and he refused, following which the Tenant threatened to cut down the hoop unless Occupant 3 moved it closer to his place. He alleges that the children were upset by the male Tenant's anger and he did tell the male Tenant to leave them alone. Occupant 3 then writes that the Tenant picked up a glass bottle and threw it at him. It smashed on the ground and a child cut his foot on the glass. According to the writer the male Tenant continued to yell at him while he was cleaning up the glass. According to the letter several other occupants came out and asked the male Tenant to cease his behaviour, at which point the male Tenant swore abusively at them. According to Occupant 3, the next day he found the basketball hoop's net had been cut up. The writer further alleges that the male Tenant has spit on his mailbox. Occupant 3 further writes that he saw the male Tenant throw cat feces on the doorstep of another neighbour and a vehicle. This writer also alleges that the male Tenant has threatened him with a screw driver and a golf club. The writer also states he has seen the male Tenant use racist and abusive language toward first nations' occupants. This occupant alleges that the male Tenant is mentally unstable and causes drama on the property every day.

Occupant 4 writes that she has put up with the Tenants harassing behaviour for approximately 8 years. She alleges the male Tenant is mentally unstable and should see a mental health worker. According to the letter, the male Tenant swears at her children when they are playing on a grassy area of the property. Occupant 4 also writes that she had a satellite TV installer inform her that he saw someone punching her vehicle outside. She writes that she saw it was the male Tenant and when she went outside to talk to him his hand was cut and he wiped the blood off his hand onto her face.

Occupant 4 alleges she has seen the male Tenant going through her garbage after she has put it out, which she finds to be creepy and an invasion of her privacy. She alleges the male Tenant cut up her lawn chairs one summer. According to the writer a fight occurred between the male Tenant and her 16 year old son, and when the father of the 16 year old stepped in to break up the fight, the male Tenant hit him in the head with a rock. According to the writer the male Tenant likes to start trouble and then call the police and cry wolf. Occupant 4 further writes she fears for her children's and her own safety.

The Landlord testified that since she served the Tenants with the evidence that supports the Landlord's position on the Notice the problems have escalated. According to her testimony the male Tenant has yelled at the occupants that wrote these letters.

In reply, the Tenants deny they are causing any problems at the rental unit property. They testified that they have called the Landlord many times to complain about the other occupants but that she has done nothing about their complaints. She did testify the Tenants did not put any complaints into writing.

The female Tenant testified that everyone in the rental unit property is ganging up on them. They denied backing into the basketball hoop or post, and testified that neither of them have a car and the male Tenant has no drivers license so he could not have done this type of thing.

The Tenants allege they have called the police on their neighbours many times and they are the cause of the problems. The Tenants did not provide any police reports in evidence as they testified they did not get these reports.

The female Tenant testified that the male Tenant does not get mad and has not physically abused her. She alleges that the other occupants are trying to get them evicted and that they are all writing lies in their letters. She denies the male Tenant threw cat feces and stated they do not even have a cat, so she did not know where he would get feces.

The male Tenant alleged that one of the occupants who wrote a letter is a drug dealer. He alleges that Occupant 3 and his friends are playing basketball in front of the subject rental unit and this disturbs them, as they are not able to keep their doors and windows open in the summer due to the noise from the basketball. He alleges this occupant has been taunting him, asking him when he will move out of the rental unit property. He alleges this occupant plays basketball in front of the subject because there is no room in front of his own rental unit.

The male Tenant testified he did not remember swearing at the Landlord. He testified that he has told the Landlord on numerous occasions that Occupant 3 is a drug dealer but the Landlord has not done anything about that. He denies backing into the basketball hoop or a post as alleged by the Landlord.

According to the testimony of both parties the basketball hoop is on common property in the parking lot, outside the front of the subject rental unit. The Tenants allege that this basketball playing is disturbing their quiet enjoyment.

The Tenants testified they were not that happy living at the rental unit as they do not feel safe. They further testified that the other occupants party late too and that they have ganged up on the Tenants and showed each other their letters of complaint.

The Tenants further testified that if the female Landlord has a problem with the condition of the rental unit she should have entered long ago to get things fixed.

In the Tenants' written evidence they allege the blood flew off the hand of the male Tenant and landed on Occupant 4's face, and they disagree with the events as described regarding the male Tenant fighting with the 16 year old.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Notice is a valid notice to end tenancy for cause and should not be cancelled. I dismiss the Tenants' Application without leave to reapply.

I find the Tenants have unreasonably disturbed other occupants and the Landlord with their noise, such as swearing and arguing loudly, and by using abusive, foul language with the Landlord. While the male Tenant is unable to remember using foul language and calling the Landlord a certain name, I do accept the Landlord's testimony that he did so. I also accept the written evidence of the other occupants that the male Tenant has been yelling and swearing at other occupants on the property, has created noise in the subject rental unit that other people were disturbed by and has unreasonably disturbed them on several occasions.

Overall I found the testimony and evidence of the Landlord to be more probable than that of the Tenants in this and in other areas of the dispute. I found that the male Tenant was evasive in much of his testimony, and I placed little weight on the Tenants' blanket denial of all the allegations against them. While it is not uncommon for some renters to have a disagreement with another renter at a property, I found it unusual that four different renters would complain about the renters in one rental unit without justifiable cause to do so.

This leads me to find the male Tenant has seriously jeopardized the safety of other occupants at the rental unit property. While I make no findings on the allegations he drove over a post or a basketball hoop, I do find he threw a glass bottle at another occupant of the property and this has jeopardized the safety of this occupant. This was supported by the person the bottle was thrown at, as well as Occupant 1, who writes in

their letter that they witnessed this event. Other evidence in the occupant's letters indicates that the male Tenant is in the habit of throwing things at people or their possessions around the rental unit property.

Furthermore, I find that the male Tenant either wiped his hand or otherwise caused his blood to land on the face of another occupant. However it ended up on the occupant's face, I find this to be a dangerous and unsafe action by the male Tenant.

For these reasons I find the Tenants have unreasonably disturbed another occupant or the landlord of the residential property and have seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

At the conclusion of the hearing after I dismissed the Tenants' Application, the Landlord requested an order of possession. Pursuant to section 55 of the Act, I must grant that request. As the Landlord testified that the rent for September has been paid, the order of possession is granted and the Tenants must vacate the rental unit no later than **1:00 p.m. September 30, 2015.**

The Landlord must serve the Tenants with this order and the Landlord may enforce the order through the Supreme Court of British Columbia.

Conclusion

As described above, I found the Notice to End Tenancy is valid and should not be cancelled. I found the Tenants have breached section 47 of the Act and had insufficient evidence to prove the Notice should be cancelled.

The Landlord is granted an order of possession and the Tenants must vacate the rental unit no later than **1:00 p.m. on September 30, 2015.**

This decision is final and binding on the parties, except as otherwise provided under the Act and 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: September 21, 2015

