



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Women's Resource Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause. The tenant, a witness for the tenant, two agents for the landlord and two witnesses for the landlord participated in the teleconference hearing.

Each party confirmed that they had received the other party's evidence. Both parties and their witnesses were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Preliminary Issues

The tenant stated at the beginning of the hearing that she had the flu. The tenant did not request an adjournment or arrange for an advocate to assist her with the hearing. I found that the tenant readily responded to the landlord's evidence and clearly provided her own response, and it was not necessary to adjourn the hearing.

The tenant and her witness abruptly disconnected from the hearing at 11:56 a.m., just as I was preparing to conclude the hearing. The landlord and I waited on the line for a further 10 minutes but the tenant did not call back into the hearing. I then closed the teleconference hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

If so, should I issue an order of possession for the landlord?

Background and Evidence

The tenant resides in an apartment in not-for-profit housing for women. The housing society's mandate is no violence against women.

On December 21, 2015 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated that the reasons for ending the tenancy were that the tenant

- (1) significantly interfered with or unreasonably disturbed another occupant;
- (2) seriously jeopardized the health or safety or lawful right of another occupant;
- (3) engaged in illegal activity that
 - a. adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant and
 - b. jeopardized a lawful right or interest of another occupant.

Landlord's Evidence

The landlord stated that the reason for serving the tenant with the notice to end tenancy was that on December 18, 2015, the tenant (LP) pushed her way into the room of another tenant (JSL) and assaulted her.

The landlord stated that on December 18, 2015, JSL came to landlord staff with blood all over her face and carrying a handful of hair that had been ripped out from the roots. The landlord stated that JSL was screaming in pain. JSL reported that the tenant, LP, had come into her room and beat her up. The landlord stated that JS called the police, who then attended and viewed the video footage. Ultimately JSL did not press charges.

The landlord stated that they also viewed the video footage and could see LP sprinting into JSL's suite. They then decided to serve LP with the notice to end tenancy.

The landlord submitted the video footage as evidence. The footage shows LP following JSL into her suite, and I observed that the tenant's body language in the video appears very aggressive and angry as she moves toward JSL's door and then pushes her way in. After approximately one minute two other tenants, M and JF, enter JSL's suite. Almost immediately after that the footage shows a partial view of a struggle in the doorway of JSL's suite, with JSL trying to pull away. At one point it is clear that the tenant, LF, is holding JSL down. It then appears that LF pulls out a chunk of JSL's hair. Then JSL pulls free and leaves, approximately two minutes after the beginning of the struggle in the doorway.

Tenant's Response

The tenant stated that she only hit JSL once, and it was in self-defence. The tenant stated that another tenant, JF, is the tenant's friend. In late November or early December 2015, JSL borrowed \$650.00 from JF. The tenant stated that she tried to speak to JSL every time she saw her to ask when she was going to pay JF back, but JSL would just slam her door in the tenant's face. In the hearing the tenant repeatedly expressed how upset she was that JSL would not pay JF back and it appeared that nobody was going to do anything about it.

The tenant stated that on December 18, 2015 she was leaving JF's apartment and she saw JSL going into her apartment, so she went into JSL's apartment to talk to her about paying JF back. The tenant stated that she told JSL that JF had no money to even buy milk. The tenant stated that JSL reached down and grabbed what appeared to be a knife from under the coffee table and started yelling at the tenant, "I stab you!" The tenant stated that she continued to talk to JSL about JF's money and then JSL lunged toward the tenant. The tenant stated that she put her fist out and hit JSL in the mouth.

The tenant stated in the hearing that she suffers from PTSD. I asked the tenant why she continued to question JSL about the money after JSL appeared to have picked up a knife, but she could not provide any clear reason.

JF, who appeared in the hearing as a witness for the tenant, stated that she heard JSL yelling "I stab you!" and she saw JSL make stabbing motions toward the tenant with what appeared to be a knife.

Analysis

I find that the notice to end tenancy for cause dated December 21, 2015 is valid. I find that the tenant assaulted JSL on December 18, 2015. I do not accept the tenant's testimony that she acted in self-defence. The tenant could not explain why she continued to question JSL about the money after JSL appeared to have picked up a knife. I find that the video footage shows the tenant actively assaulted JSL in the doorway, and therefore the tenant did not only hit JSL once. In the hearing the tenant expressed outrage that JSL would not pay JF back and "nobody would do anything about it." As noted above, I found that in the video footage the tenant appeared very aggressive and angry as she moved toward JSL's door and then pushed her way in. I find it likely that the tenant was very angry during the incident on December 18, 2015.

The landlord stated that they received the tenant's rent for February 2016, and they were not opposed to having the order of possession with an effective date of February 29, 2016.

As the notice is valid, I dismiss the tenant's application. I find that the form and content of the notice to end tenancy conform to statutory requirements, and I accordingly grant the landlord an order of possession effective February 29, 2016.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective February 29, 2016. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: February 16, 2016

Residential Tenancy Branch

