



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brown Bros. Agencies Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant; her advocate/support; her witness and two agents for the landlord.

I note that Section 55 of the *Residential Tenancy Act* (*Act*) requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Act*.

Should the tenant be unsuccessful in seeking to cancel the 1 Month Notice to End Tenancy for Cause it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1) of the *Act*.

Background and Evidence

Both parties submitted into evidence a copy of a tenancy agreement signed by the parties on May 28, 2015 for a 1 year fixed term tenancy beginning on May 31, 2016 for the monthly rent of \$685.00 due on the 1st of each month with a security deposit of \$342.50 paid.

The tenant submitted a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on February 29, 2016 with an effective vacancy date of March 31, 2016 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or lawful right of another occupant or the landlord; put the landlord's property at significant risk and the 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.

The landlord submitted that they have received a number of complaints from other tenants in the residential property about the tenant letting into the building many "scary homeless" people.

They state that since the first notices to end tenancy were issued in January 2016 the tenant's behaviour has escalated and now she is letting these people into her unit by having them go through her window. The landlord submitted that there is now a path from the parking lot to the tenant's window.

The landlord also submitted that a number of the tenant's behaviours include harassing the on-site building manager including after the manager has left the building and is walking down the street. The landlord stated that this harassment includes name calling and continuously recording their interactions. The landlord submitted that as a result the on-site building manager has been prescribed with anti-anxiety medications.

The agent for the landlord (KN) stated that she had received complaints from the tenant about the building manager over the course of the tenancy for which they investigated and determined to be unfounded. KN stated that these are recorded in the emails between the landlord and tenant submitted in the tenant's evidence.

One such complaint made by the tenant about the on-site manager was that she had had the tenant deposit other tenants' cash rental payments for her at a local bank. The agent (KN) stated that first of all they do not accept cash rental payments and second building managers do not make deposits – they are sent to the headquarters office for deposit.

Another complaint outlined in the emails and dated September 29, 2015 states that the tenant heard the building manager yelling at one of the tenants outside of her door using vulgarities to describe the tenant (5 times). KN stated that they had not received any complaints about the on-site building manager, from any other tenants, for the duration of her employment with them.

The tenant confirmed that she recorded her interactions, using her phone, with the on-site building manager so she could have evidence of the way the agent was treating and harassing her despite her being very respectful of the agent. However, she later stated that she did not submit these recordings into evidence because she erased them. She stated she erased them because they did not showing any harassment.

The tenant's witness submitted that he knew the tenant was not inviting hordes of "homeless" people into her rental unit. He also stated that he knew the tenant to be a caring person who is quiet and does not party. He stated that she would not let him smoke in her unit.

The witness testified that he was with the tenant when she was serving the on-site building manager with evidence for a previous hearing. He stated, and the tenant agreed, that when they approached the door the agent was trying to avoid them as if she was scared of them. Neither the tenant nor the witness could provide specific details of this service such as when it occurred or what specific documents were served.

The landlord's agent KN stated that all evidence submitted for either of the hearings between these two parties was served to the headquarters and not to the building manager. The landlord's agent AP testified that the tenant and the witness never served her with any paperwork related to any hearings.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - iii. Put the landlord's property at significant risk;
- b) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

I find the testimony of the tenant's witness has provided no insight to any of the specific allegations made by the landlord. I find the witness had little to no direct knowledge of any of the incidents the landlord is alleging.

In regard to the landlord's assertions that the tenant allowed "scary homeless" people into the residential property, I find the landlord has provided no evidence that any of the tenant's guests have caused any disturbances or seriously jeopardized the health or safety or lawful right or interest of other occupants or put the landlord's property at risk.

I also find the landlord has failed to establish any illegal activity that would adversely affect the quiet enjoyment, security, or safety or physical well-being of another occupant of the property.

However, in relation to the landlord's assertions that the tenant has been harassing the on-site building manager, I find the submissions made by the tenant are not credible. I find that if the landlord's agent had been harassing the tenant she would have had evidence of this by making the recordings that she had made – instead she confirms that the recordings did not provide any evidence of harassment and so she has erased them.

I find the complaints that the tenant made to the landlord's headquarters were frivolous and vexatious. I accept the landlord's submissions regarding both their process for cheque deposits and they have not received complaints about the on-site manager until this tenant.

In addition, neither the tenant nor her witness could provide sufficient detail as to the date or what documents were served to the on-site building manager in the incident described by the witness.

Furthermore, I find the landlord's submissions to be sufficiently detailed and consistent to lend credibility to their submissions. As a result, I favour the landlord's evidence and find the landlord has established that the tenant has engaged in a vicious campaign to harass the on-site building manager. I also find that this harassment has significantly interfered with the landlord and seriously jeopardized the health of the landlord's agent.

For these reasons, I find the landlord has established sufficient cause to end the tenancy. I, therefore, dismiss the tenant's Application for Dispute Resolution.

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the

effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the 1 Month Notice to End Tenancy for Cause issued by the landlord on February 29, 2016 complies with the requirements set out in Section 52.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the *Act*.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: April 20, 2016

Residential Tenancy Branch