



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A DECISION

Dispute Codes CNC, MNDC

Introduction

This hearing addressed the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, pursuant to section 67;

The tenant and the landlord's three agents, landlord MG ("landlord"), "landlord PB" and "landlord CB" attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The landlord confirmed that he is president of the landlord company named in this application (also referred to as "landlord" in this decision). Landlord PB and landlord CB confirmed that they are superintendents for the landlord company named in this application. All of the landlord's agents confirmed that they had authority to represent the landlord company at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution. In accordance with sections 89 and 90 of the Act, I find that the landlord was duly served with the tenant's application, evidence and hearing notice.

The landlord testified that landlord PB handed the tenant a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") on March 20, 2106. The tenant disputed the 1 Month Notice was handed to him; rather he contended that it had fallen to the ground. Nonetheless, the tenant acknowledged receipt of the 1 Month Notice on March 20, 2016. In accordance with sections 88 and 90 of the Act, I find that the tenant was duly served with the landlord's Notice.

Rule 2.3 of the RTB *Rules of Procedure* states that claims made in an Application must be related to each other and that an Arbitrator has discretion to dismiss unrelated claims with or without leave to reapply. I advised both parties at the outset of the hearing that

the central and most important issue for this hearing was whether this tenancy would end pursuant to the landlord's 1 Month Notice and if there was enough time to hear the tenant's remaining claims, I would hear them. At the end of the hearing, I advised both parties that there was not enough time to hear the tenant's remaining claims, as 60 minutes had already expired in the hearing. I have addressed the remainder of the tenant's claims in the analysis and conclusion sections of this decision, below.

Issue(s) to be Decided

Is the tenant entitled to have the landlord's 1 Month Notice to End Tenancy for Cause dismissed? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence, including photographs, voice recordings, and miscellaneous letters, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The landlord testified that this tenancy began on July 16, 2014 on a month-to-month basis. Rent in the amount of \$600.00 is payable on the first of each month. The tenant remitted \$300.00 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

The landlord provided a copy of the 1 Month Notice. In the 1 Month Notice, which required the tenant to vacate the rental unit by April 30, 2016, the landlord cited the following reasons for the issuance of the Notice:

- *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;*
- *Tenant has engaged in illegal activity that has, or is likely to:*
 - *damage the landlord's property;*
 - *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*
 - *jeopardize a lawful right or interest of another occupant or the landlord.*

While the landlord testified to various incidents that led to the 1 Month Notice, he emphasized the ongoing harassment committed by the tenant as the primary reason. The landlord testified that he had received phone calls, messages and letters to his personal residence on more than one occasion. As a result he stated that his wife and daughter, who reside with him, also received these phone calls, messages and letters. The landlord testified that the correspondence submitted by the tenant was derogatory in nature. The landlord has submitted audio recordings of two phone messages. The tenant does not dispute making the phone calls, in the period of six months he estimates to having made three phone calls to the personal residence of the landlord. It is the tenant's position that these calls were an effort to rectify issues he was having with the tenancy. The tenant also acknowledged sending one letter to the personal residence of the landlord, which went unanswered.

The landlord testified that in addition to himself and family, the tenant has harassed other residents of the rental building. In particular the tenant has taken pictures of other residents without their consent, called them names, used racial slurs against them, and slipped offensive notes under their doors. The landlord has provided witness statements from residents of the rental building and copies of notes sent to the residents. The tenant acknowledged that he took two pictures of other residents. He states that in the one picture he ensured the identity of the other residents were unrecognizable and only took this picture to capture the overview of the common room. The tenant testified that the second picture, taken of a resident sitting in the lobby was done to depict the invasion of his privacy. He stated that this particular resident sits for hours on end as a "look out." The tenant testified that communication with the other residents was prohibited by the landlord and any communication he did make was respectful and done to defend his rights.

Lastly, landlord PB testified that he along with other staff members have been harassed by the tenant by way of racial slurs and other verbal abuse. The landlord has provided witness statements from the building manager and office manager. The landlord has also provided copies of the various letters/notes staff have received from the tenant throughout his vacancy. The tenant testified that any "bad behaviour" depicted by landlord PB was not bad behaviour at all, but rather him defending his rights and speaking up when people were doing something wrong. The tenant has provided a letter written by a local retailer that speaks to his courteous and polite demeanour.

Analysis

A landlord may end a tenancy if the tenant 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. The onus is on the landlord to prove the significant interference or unreasonable disturbance took place by the tenant of person permitted on the property by the tenant. The landlord provided evidence in the form of written letters, notes, witness statements, audio recordings of phone calls and testimony regarding ongoing harassment that led to the 1 Month Notice being issued. The tenant did not disagree with the method used for communication, rather he argued the communication was of a respectful nature and did not constitute harassment. Accordingly he seeks to have the 1 Month Notice cancelled.

Upon review of the evidence I find the style of communication used by the tenant constitutes harassment. The tenant did not use a respectful tone in his correspondence to the landlord. In particular, in a letter dated February 11, 2105, written to the office manager the tenant wrote;

- *"The four of you are grossly incompetent..."*
- *"Your assistant is a thug, first class."*
- *"I once had to expel her from my house to shut her ignorant mouth..."*
- *"Bully" (reference to landlord PB) has no character-God help those he supervises."*
- *"Your "test" is more of your idiocy."*

The tenant's harassment towards the landlord is further evidenced by an article and note he forwarded to landlord PB. The news article entitled "Poland's undoing" was accompanied by a note which read;

Reading this article, I see how it accurately describes what you are here at Columbus Tower: a real disease. You are Anti-Christian, a fraud to your public image. You'll find all this out on your judgement day, Under you, ..., the party is the knights of Columbus here: have you thought of moving to Poland? For good?

The tenant was equally disrespectful towards residents. In an undated note, written to a resident the tenant wrote;

"You calling Police on your insults to me is more proof of your malice. Police Officer Amber #2443 will be investigated by the police depart. For her stupidity towards me. You are pagan not Christian, not Catholic: shame on you."

The above is a sample of the correspondence submitted to file that illustrates the negative tone used by the tenant. Through submitted evidence and direct testimony the

landlord has adequately shown that the tenant has engaged in harassing behaviour that resulted in the significant interference and unreasonable disturbance of another occupant and the landlord of the residential property. Therefore, I dismiss the tenant's application to cancel the Notice.

Section 55 of the Act establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that a notice to end tenancy from a landlord must be in writing and 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.

As the Notice complies in form and content and as the tenant's application has been dismissed I find that the landlord is entitled to an order of possession. I therefore grant an order of possession to the landlord effective May 31, 2016 at 1:00 p.m.

Conclusion

The tenant's application to cancel the Notice is dismissed.

An order of possession is granted to the landlord effective May 31, 2016 at 1:00 p.m.

The tenant's Application for a monetary order for damage or loss under the *Act*, *Regulation* or tenancy agreement is dismissed with leave to reapply.

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: May 06, 2016

Residential Tenancy Branch