



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

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

- cancel a 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47; and
- order the landlord to comply with the *Act*, *Residential Tenancy Regulation* (the "*Regulation*") or tenancy agreement, pursuant to section 62.

The tenants and the landlord attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord confirmed receipt of the tenants' application for dispute resolution. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

Although the tenants applied for the landlord to comply with the *Act*, *Regulation* or tenancy agreement, they failed to provide testimony or other evidence in relation to this portion of their application. For this reason I dismiss this portion of the tenants' application.

Issue(s) to be Decided

Are the tenants entitled to have the landlord's 1 Month Notice cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

As per the landlord and tenants testimony, this tenancy began on October 21, 2011 on a month to month basis. Rent in the amount of \$975.00 is payable on the first of each

month. A security deposit in the amount of \$487.50 and pet deposit in the amount of \$200.00 was remitted at the start of the tenancy. The tenants continue to reside in the rental unit.

The tenants confirmed personal receipt of the landlord's 1 Month Notice on May 24, 2016. The reason cited in that 1 Month Notice was 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 accordance with sections 88 and 90 of the *Act*, I find that the tenants were duly served with the landlord's 1 Month Notice.

Landlord

The landlord testified that the tenants have threatened him, used profanity and other aggressive behaviour towards him. On one occasion during a telephone conversation tenant RN attacked the landlord's Christian faith using profanities. Tenant RN has challenged the landlord to attend the rental unit in person and when the landlord did attend tenant RN stepped in his direction in a threatening manner. The landlord testified that the tenants' aggressive behaviour has led to his other tenants fearing for their safety. The landlord testified that he has received ongoing complaints from current and past neighbours of the rental unit about the tenants' aggressive behaviour. The landlord has submitted three witness statements that speak to the overall behaviour and demeanour of the tenants.

The first statement, written by neighbour SC indicates the tenants have yelled at her in regards to her dog, yelled at her daughter, smoked marijuana, left their children unsupervised which resulted in pounding on her door, loud music, and a bagged dead rat and food thrown in her backyard. Witness SC indicated she has observed tenant RN harass others for parking in front of the rental unit, and has received a threatening note from the tenants for watering the tenants' flowers. Additionally witness SC writes she has been threatened by both tenants when she contacted the police and landlord with complaints.

The second statement provided by the landlord is written by witness NT, a neighbour of the rental unit for four years. Witness NT indicates the tenants have been belligerent and very hostile towards people in the neighbourhood and herself. Witness NT alleged the tenants engage in illegal activity and domestic disputes that result in police attendance at the rental unit. Witness NT refers to the tenants' use of foul language and an incident in which her vehicle had been vandalized by the tenants' child. The tenants have littered in her yard and yelled profanities at her.

The last witness statement written by witness NR indicates the tenants have reported her to the police on five occasions in one month and the tenants continually record her. On one occasion, witness NR asked the tenants' child if he had a scale to borrow and the child reported to the tenants that witness NR had requested a scale to weigh drugs. Witness NR alleged the tenants' child lied to his parents about the purpose of the scale request.

Tenants

Tenant RN denied stepping towards the landlord in a threatening manner; he acknowledged that he did verbally question the landlord's Christian faith.

In reference to witness SC's statement, the tenants acknowledge they have yelled at witness SC and her dog for excessive barking but denied yelling at witness SC's daughter. Tenant TN testified that they do not live in the best neighbourhood and all the neighbours smoke marijuana. The tenants acknowledged leaving their children unsupervised but contended the youngest is 12 years of age. The tenants acknowledged an instance in which their son was playing loud music at 3:30 in the afternoon however their son apologized to the neighbours for this disturbance. The tenants deny their children have thrown a dead rat or food in witness SC's yard. Tenant RN denied harassing anyone for parking issues. The tenants acknowledged they did complain to witness SC about watering their plants because witness SC used too much water pressure and damaged the plants. Both tenants deny ever threatening witness SC.

The tenants testified that at one time they were friends with witness NT but had a falling out. The tenants denied being belligerent and hostile, they testified that witness NT fabricated this. The tenants disputed engaging in illegal activity and stated they were self-employed. The tenants alleged the police presence was usually a result of their teenage son, they acknowledged that they sometimes engaged in arguments. The tenants denied excessive use of foul language. The tenants acknowledged their son accidentally spilled something on witness NT's car but contended he later cleaned it up. The tenants denied yelling profanities at witness NT; they do not speak to her.

The tenants disputed they called the police on witness NR five times, they confirmed they called the police twice in regards to witness NR. The first instance the tenants called the police was related to an incident in which witness NR offered their son marijuana, the second instance the tenants called the police was after the tenants heard witness NR's daughter screaming. The tenants deny their son lied about the request of a scale for the purpose of weighing drugs.

Analysis

Under section 47 of the Act, 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 or person permitted on the property by the tenant. The landlord provided evidence in the form of witness statements and testimony regarding the tenants aggressive, threatening behaviour that led to the issuance of the 1 Month Notice.

I prefer the testimony of the landlord over the tenants. The landlord was consistent in his testimony and did not waver in his version of events. The tenants' evidence, on the other hand, lacked credibility. Although the tenants denied most allegations presented by the landlord and the witness statements, the tenants acknowledged questioning the landlord's Christian faith, yelling at a neighbour over a dog, disturbing another neighbour with their son's loud music, police attendance and an incident involving their son and the neighbour's car. The landlord and tenants' testimony has persuaded me on the balance of probabilities that the tenants have engaged in aggressive and disturbing behaviour towards the landlord and neighbours. Accordingly, I find the tenant has unreasonably disturbed another occupant and the landlord of the residential property. Therefore, I dismiss the tenants' application to cancel the 1 Month 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.

Based on the landlord's testimony and the notice before me, I find the 1 Month Notice complies in form and content. As the tenants' application has been dismissed I find that the landlord is entitled to a two (2) Day order of possession, pursuant to section 55 of the *Act*.

Conclusion

The tenants' entire application is dismissed without leave to reapply.

An order of possession is granted to the landlord effective two (2) days after service on the tenants.

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: July 18, 2016

Residential Tenancy Branch