



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Siddoo Properties Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OLC, MNDC, OPC, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant applied on June 2, 2016 for:

1. An Order cancelling a notice to end tenancy - Section 47;
2. An Order for the Landlord's compliance - Section 62;
3. A Monetary Order for compensation - Section 67 and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on June 10, 2016 for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matters

The Tenant initially sought to summons witnesses but was not fully certain of the procedures or the evidence that was being sought from the proposed witnesses. After hearing Landlord's evidence Tenant was given opportunity to revisit the request and the Tenant withdrew the request.

The Tenant claims a reduced amount for compensation for harassment and breach of the tenant's right to quiet enjoyment.

Rule 2.3 of the RTB Rules of Procedures provides that claims made in an application must be related to each other and that unrelated claims may be dismissed with leave. As the Tenant's claims for compensation and for the Landlord's compliance are not related to the matter of whether or not the tenancy ends, I dismiss these claims with leave to reapply.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an order of possession?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The tenancy started on June 1, 2006. Rent of \$1,038.30 is payable monthly.

The Landlord states that on May 23, 2016 the Tenant went to another tenant's unit and banged on the door while swearing loudly. The Landlord states that this significantly disturbed other tenants who witnessed the incident. The Landlord states that the other tenants were fearful to the point where they avoid the elevator if the Tenant is present and to considering a move out of the unit. The Landlord provides emails from other 4 other tenants in relation to the incident and a form letter indicating their fear of the Tenant, signed by three of those same tenants, two of whom are long term tenants like the Tenant. The Landlord states that the Tenant previously created disturbances by making loud noises and swearing in this unit. The Landlord states that the Tenant also previously threatened a neighbour who had complained about the Tenant's noise. The Landlord provides a copy of an email dated October 6, 2015 from this tenant about the previous incident.

The Tenant admits that he went to the other tenant's unit to complain about pot smoke that had been entering his unit every night for several weeks and despite complaints to the Landlord. The Tenant states that he did bang on the door quite loudly and that he understands that this behavior is inappropriate but that the Tenant is frustrated with the Landlord's actions in responding to complaints about the Tenant while doing nothing about the Tenant's complaints of pot smoke. The Tenant states that he previously brought applications against the Landlord after which the Tenant felt that the Landlord started to retaliate toward the Tenant by giving the

Tenant breach letters. The Tenant states that he felt he had no option but to confront the tenant. The Tenant states that he later apologized to this tenant. The Tenant states that he did confront another tenant previously but that the incident only involved the Tenant calling the other tenant a name from a distance of 20 feet away and was not something the police needed to be called to.

The Landlord states that they have been investigating the Tenant's complaints of pot smoke but notes that the building allows smoking in the units. The Landlord states that they confirmed through their own investigation that the pot smoke is more likely coming from a unit below the Tenant and not from tenant that was confronted. The Landlord states that an order of possession for the end of August 2016 would be sufficient in order to allow the Tenant time to find another rental unit. The Landlord provides Witness letters.

Analysis

Section 47(1) provides that a landlord may end a tenancy by giving notice to end the tenancy if, inter alia, 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 Tenant's evidence of being upset with the Landlord's lack of action over pot smoke and the subsequent choice of the Tenant to confront another tenant with the matter is evidence of a disturbance. Given the Tenant's evidence of his own behavior during this incident, I accept the Landlord's evidence that the tenant that was confronted and those who witnessed the incident became fearful to the point where a move is considered by one or more. I find this to be evidence of an unreasonable disturbance. Although the Tenant argues this is a one-time incident, I note that the Tenant also previously used profanity when confronting another tenant about that tenant's complaints. I accept that this Tenant has a temper, behaves in a threatening manner, and is frightening to others. I find therefore that the Landlord has substantiated on a balance of probabilities that the Tenant has unreasonably disturbed another occupant or the landlord of the residential property. I find that the Notice is valid and therefore dismiss the Tenant's application.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a 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 effective August 31, 2016. As the Tenant made an application to dispute the Notice, the Landlord's application was not necessary and I dismiss the Landlord's claim for recovery of the filing fee.

Conclusion

The Tenant's application is dismissed.

I grant the Landlord an order of possession effective 1:00 p.m. on August 31, 2016.

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 22, 2016

Residential Tenancy Branch