



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, MNDC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- order the landlord to comply with the *Act*, *Residential Tenancy Regulation* (the "Regulation") or tenancy agreement, pursuant to section 62; and
- 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 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 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 served with the tenant's application.

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

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The parties testified that the tenancy originally began September 8, 2015 on a month-to-month basis. As per the submitted tenancy agreement, the tenant entered into a new tenancy agreement on January 1, 2016 on a fixed term until March 31, 2016. It is the tenant's position that this tenancy agreement was drafted and signed in March of 2016 but backdated for January 2016. The landlord disputed this and contended it was signed in January of 2016. Rent in the amount of \$525.00 is payable on the first of each month. The tenant continues to reside in the rental unit.

The tenant acknowledged personal receipt of the landlord's 1 Month Notice dated June 8, 2016. The grounds to end the tenancy cited in that 1 Month Notice were;

- the tenant has allowed an unreasonable number of occupants in the unit/site
- the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
- 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 or the landlord
- the tenant caused extraordinary damage to the unit/site or property/park
- the tenant has assigned or sublet the rental unit/site without landlord's written consent
- the rental unit/site must be vacated to comply with a government order

Landlord

The landlord explained that originally the tenancy included the tenant's partner, however in January of 2016, a domestic dispute between the two tenants resulted in the tenant's partner being incarcerated. In January of 2016, the tenant signed a new tenancy agreement as the sole occupant. It is the landlord's position that upon being released from prison, contrary to the new tenancy agreement, the tenant's partner resumed residence in the rental unit. The landlord testified that the neighbours have called the police several times in response to loud disputes between the tenant and her partner. The landlord indicated that items have gone missing from other renters and suspects the tenant's associates are involved in this. Most recently, the rental unit has endured significant damage from an attempted break and enter. The windows were broken and the door was kicked in.

Building Manager

The Building Manager testified that in the eight years he has resided in the complex he has not had a problem until the tenant and her boyfriend moved in. He has had items stolen and suspects involvement from the tenant's friends.

Witness, LE

Witness LE resides in a neighbouring unit and has endured pounding on the walls, and police knocking on his door late at night.

Tenant

The tenant agreed that her and her partner engaged in a domestic dispute that resulted in police attendance and her partner's incarceration. The tenant acknowledged signing the new tenancy agreement that lists her as the sole occupant however she contended this was signed in March and was unaware that it was a fixed term. She explained that the majority of the tenancy agreement was blank when she signed it and alleged the landlord must have filled in the remainder later. The tenant acknowledged that her partner's friend stole items from the neighbours however when she became of this she instructed the friend to leave. This same "friend" conducted a home invasion on the rental unit causing significant damage to the rental unit. This home invasion and damage did not occur until after the 1 Month Notice was served.

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 oral and witness testimony regarding the ongoing disturbance created by the tenant and the tenant's partner.

The tenant did not dispute that an associate of hers, permitted on the property by her or her partner, stole items from the neighbours. I find this constitutes an unreasonable disturbance to other occupants. Therefore I find that the landlord has met the onus and dismiss the tenant's 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 tenant's 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 tenant's application to cancel the 1 Month Notice is dismissed.

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

As the tenancy is ended and as a landlord's compliance may only be sought in relation to an ongoing tenancy the tenant's application for an order for the landlord to comply with *Act*, *Regulation* or tenancy agreement is dismissed without leave to reapply.

The tenant's application for a monetary order for money owed or compensation 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: August 2, 2016

Residential Tenancy Branch