



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VALLEJO COURT GP INC C/O TOUCHSTONE PROP MGMT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, MNDC, MT

Introduction

This hearing dealt with an application by the tenant (AB) for an order to set aside a notice to end tenancy for cause and for additional time to do so. The tenant also applied for a monetary order in the amount of \$5,000.00 for compensation for loss under the *Act*. Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

This hearing was originally scheduled to take place on September 21, 2016, by conference call. Both parties attended the hearing. During the hearing, after 55 minutes of hearing time, I determined that it would be more efficient to conduct this hearing in person. Accordingly the hearing was reconvened for this date – October 04, 2016, to take place in person at the Burnaby office of the Residential Tenancy Branch.

Residential Tenancy Branch Rules of Procedure s.2.3 states that if in the course of a dispute resolution proceeding, if the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply. In this regard I find the tenant has applied for a monetary order for compensation. As this portion of the tenant's application is unrelated to the main section which is to cancel the one month notice, I dismiss this portion of the tenant's application with leave to reapply.

The tenant applied for additional time to make this application. The landlord had served the original notice to end tenancy for cause on July 22, 2016. The tenant agreed that she received this notice on July 24, 2016. The landlord amended the effective date of the end of tenancy and served the tenant, the amended notice by posting the notice on the tenant's door and mailing a copy by ordinary mail. The tenant denied having received a notice on her door and stated that she received it in her mailbox on August 02, 2016.

I accept that the landlord posted the notice on the tenant's door on July 27, 2016 and accordingly the tenant is deemed to have received the notice on July 30, 2016 and would have had to make application to dispute it, no later than August 10, 2016.

The tenant made this application on August 12, 2016 which is two days beyond the legislated timeframe of 10 days to make application to dispute a one month notice to end tenancy. However in this case, I will give the tenant the benefit of the doubt and accept that the tenant received the notice to end tenancy by regular mail on August 02, 2016 and therefore by making application on August 12, 2016, the tenant is within the legislated time frame of 10 days to do so.

Both parties' testimonies and evidence have been considered in the making of this decision. The tenant's evidence consisted of a large quantity of hand written material. Most documents of the tenant's evidence were not legible and have not been considered. As this matter was conducted over two separate days and in excess of two hours of hearing time, I have considered all the legible written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began on November 01, 2014. The rental unit consists of an apartment located in a building that houses other apartments. On July 27, 2016, the landlord served the tenant with a notice to end tenancy for cause. The notice was served for the following reasons;

Tenant or a person permitted on the property by the tenant has:

- a. significantly interfered with or unreasonably disturbed another occupant or the landlord

The landlord testified that she had received at least 53 voice mail messages from the tenant AB, during the period of April 13 to September 12, 2016. The landlord filed digital evidence of these messages. The landlord stated that the messages were harassing, included profanity, threats and accusations against other residents of the building complex.

AB agreed that she had left multiple voice mail messages for the landlord but denied that there was profanity and threats to the landlord. AB also agreed that there were probably two or three messages that contained accusations against other tenants.

The landlord stated that notices to the building residents are posted on a wall above the mail boxes and every resident is provided with a copy of the notice. The landlord admitted that she was slipping the notice under the door of each resident's rental unit but after she realized that this was not an acceptable method of service, the landlord started posting notices on the doors to the rental units.

The landlord stated that in addition to providing every resident with a copy of the notices, these notices were also posted in the common area, on the wall above the mail boxes. These notices usually comprised of notifications of maintenance work and water shutdowns.

The landlord stated that AB vandalized these notices by writing all over them, scratching out names and even including the private cell phone number of the manager. The landlord filed copies of notices to the residents that were vandalized in this manner. These notices are dated March 10, April 07 and July 15, 2016. AB did not deny writing over these notices that were posted in the common area.

AB's documents filed into evidence consist of hand written material some of which is printed material over which she has made hand written notes. The notes cover all areas of the pages submitted into evidence, are written in all directions and for most part are illegible. The tenant's defense was that she was not familiar with computers or email and therefore hand wrote all her thoughts on paper.

An example of a legible sentence from the tenant's rambling notes, states "*Stop ridiculing and laughing at me this is not Nazi Germany, Russia. China or thief's of middle eastern countries*"

The landlord testified that not only did AB provide large amounts of handwritten materials to the landlord but did so to the other residents of the building. AB admitted to slipping written notes under the doors of other residents, but stated that she did so in her attempts to help the other tenants.

The landlord filed a copy of a note written by the tenant to the occupant of rental unit #203, which is located directly under the dispute rental unit. The note is dated April 25, 2016 and says "*Move out stop slamming your door 24/7 lawsuit coming by 7 tenant chief of police van police dept. surveillance on occupants for 6 weeks*".

The recipient of this note sent the landlord an email on July 18, 2016 complaining about the activities of AB and attached photos of notes written by AB that were posted on other residents' doors and around the building. The handwritten notes are mostly illegible. The following words are legible and state "*Tenant in #203 nuisance 200 times*".

The occupant of #203 stated in her email to the landlord that AB came to her apartment at 1:30am and started yelling about things that were bothering her and informed the resident of #203 that the police were watching her. The email note goes on to say that AB is causing the writer (resident of #203) undue stress and making her feel very uneasy. The note states that in addition to the above, the tenant creates noise disturbances by stomping and banging sometimes at 4:30am. The writer has reported this matter to the police

The landlord testified that AB has also had multiple negative interactions with the resident of #302 and has put printed material over written by hand under her door and has verbally threatened her. The landlord stated that the tenant in #302 reported being assaulted with a shopping cart, by AB in the parking lot of a grocery store and has given notice to end the tenancy due to the problems with AB.

The landlord stated that AB made false accusations against the landlord to the Real Estate Board. The Board contacted the landlord and let her know that the matter was dismissed as "nonsense".

The landlord further added that AB was verbally abusive to the staff members on the landlord's maintenance team. The landlord stated that the landscaper hired by the landlord, had complained about the tenant yelling at her as she carried out her duties. The tenant denied yelling but stated that she was merely giving the landscaper information on where she could park her vehicle.

The tenant's testimony consisted of a rambling description of various events, some of which were not relevant to the issues at hand. I had to remind the tenant multiple times to stay focused on the matters before me.

The landlord stated that several verbal warnings were given to the tenant but the behaviour persisted. On May 06, 2016, the landlord served the tenant with a detailed warning letter. The letter included details of the activities of the tenant with regard to leaving multiple messages for the landlord, making false allegations against staff to various organizations, yelling at the landlord's employees, vandalizing notices posted in common areas, frivolously knocking on the doors of other tenants and leaving written messages for other tenants by sliding them under their doors. Despite the warning letter, the tenant continued the offensive activity which resulted in the notice to end tenancy for cause

The landlord was very clear that she wanted the tenancy to end and agreed to allow the tenancy to continue until October 31, 2016 even though the effective date of the notice was August 31, 2016.

Analysis:

In order to support the notice to end tenancy, the landlord must prove the reason for the notice to end tenancy. Based on the documentary evidence and the verbal testimony of both parties, I find that the tenant disturbed the other occupants by slipping handwritten notes under their doors, was verbally abusive to other residents and the landlord's staff, harassed the landlord with excessive amounts of voice mail messages, made frivolous complaints about the landlord to other organizations and vandalized the notices posted in the common area.

The tenant agreed that she had left several voice messages for the landlord, had slipped hand written material under other tenants 'doors, had interacted with the landlord's staff and had written over notices posted in the common areas.

I listened to a few of the messages that the tenant left for the landlord. Some were left as early as 3:00am and were up to five minutes long. The landlord filed a large number of voicemail recordings that had rambling messages, some of which did not relate to the issues that the tenant was trying to explain to the landlord.

I accept the landlord's testimony that the tenant was given multiple verbal warnings. The tenant agreed that she was given a written warning and verbal warnings. The landlord testified that despite the verbal warnings and the written warning, the behavior continued which led to a notice to end tenancy for cause dated July 27, 2016. The landlord testified that this pattern of behavior continued even after the notice to end tenancy was served on the tenant.

Upon careful consideration of the evidence before me I find that the tenant interacted in an offensive manner with the other occupants of the building and that these interactions were serious enough to cause the other occupants of the building to voice their concerns in writing.

The documentary evidence filed by the landlord fully supports her verbal testimony regarding the vandalism of notices posted in the common areas and the interactions between the tenant and other staff members and other occupants of the building. I find that the documents filed into evidence support the reasons for the notice to end tenancy.

I further find that the landlord has proven that through the tenancy, the tenant has engaged in activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupants of the property, the landlord's staff and the landlord.

Finally, I find that despite having received a written warning, verbal warnings and a notice to end tenancy, the tenant did not change her behaviour. The noise disturbances and the copious amount of written material continued to be served to landlord and other tenants, the voice mail messages to the landlord did not let up and the tenant continued to vandalize notices posted in the common areas. Therefore I uphold the notice to end tenancy.

During the hearing, the landlord agreed to allow the tenancy to continue until October 31, 2016 to give the tenant a reasonable amount of time to find alternative accommodation. Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order.

The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and the tenancy will end. I grant the landlord an order of possession effective by **1:00 pm on October 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: October 04, 2016

Residential Tenancy Branch