



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, O

Introduction

This hearing dealt with a tenant's Application for Dispute Resolution (the "Application") under the Residential Tenancy Act (the "Act") for:

- cancellation of the landlord's One Month Notice To End Tenancy for Cause (the "One Month Notice"), pursuant to section 47; and
- unspecified other relief.

The landlord's agents (the "landlord") and the tenant appeared at the teleconference hearing. The landlord Y.B. and the tenant gave affirmed testimony. During the hearing the landlord and tenant were given a full opportunity to be heard, to present sworn testimony, to call witnesses and make submissions. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant did not submit any documents as evidence. The landlord submitted 23 pages of documentary evidence. The tenant acknowledged having received the 23 pages of documents submitted by the landlord and that she had an opportunity to review the documents prior to the hearing.

Issue(s) to be Decided

- Should the landlord's One Month Notice be cancelled?

Background and Evidence

The undisputed testimony of the tenant and landlord established that a month to month tenancy started on August 1, 2016 pursuant to a tenancy agreement signed on July 20, 2016. The rent is \$667.00 due on the first day of each month.

The landlord served the tenant a One Month Notice dated October 25, 2016 on October 25, 2016 by posting it on the door of the tenant's rental unit. The One Month Notice sets out an effective move out date of November 30, 2016. The One Month Notice also sets out the reasons for ending the tenancy as follows:

- The 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; and
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Landlord's Testimony:

The landlord Y.B. submitted emails she received from five other neighboring occupants complaining about the behaviour of this tenant. The following is a summary of the complaints.

On August 22, 2016 a neighboring occupant complained that the tenant and her children were making noise past 9:00 p.m. The occupant also complained that on August 20, 2016 the tenant was having a loud conversation past 2:00 a.m. on the back patio which kept her awake. The neighbor complained that the noise was interfering with her peace and quiet enjoyment. The landlord testified that she sent a letter to the tenant dated August 25, 2016 notifying her of the complaint and requesting that she keep the noise levels down past 9:00 p.m.

On September 12, 2016 the same occupant made a second complaint. She complained about screaming and yelling coming from the tenant's back patio at 10:30 p.m. waking her up when was asleep. The neighbor complained that she didn't feel safe living there with her children. The landlord sent another letter to the tenant dated September 14, 2016 notifying her of the complaint.

On September 22, 2016 a complaint was made from a different occupant. This occupant complained about the behaviour of the tenant's children towards her children, including complaints about the tenant's children using foul language and bullying her children. This occupant complained that she hears the same foul language from the tenant when the tenant speaks to the tenant's own children. The neighbor complained that the tenant yells and swears so loudly that it can be heard at the other end of the complex.

On September 22, 2016, another occupant complained about the foul language used by the tenant's children and the tenant towards other tenants and their children in the complex. This occupant raised concerns about the tenant's children spreading lies that could potentially put her son's safety at risk.

On September 26, 2016 another occupant complained about the foul language from the tenant towards the occupant's daughter including swearing and calling her daughter foul names.

On October 16, 2016, the neighbor occupant who made the first two complaints made another complaint against the tenant about the noise at 3:00 a.m. This occupant complained that the adults started to bang walls, run up and down the stairs and drop heavy things on the floor. The noise stopped after the neighbor knocked on the walls. This occupant found a note on her car windshield the next morning saying that the tenant and her guest were having sex. This occupant ended her tenancy on October 16, 2015 stating that she was moving out due to the excessive noises at night and the vulgarity. The neighbor stated that she feared for her and her family's safety.

On November 23, 2016, another occupant made a complaint against the tenant in an email to the landlord. The landlord testified that the occupant complained about a man attending her unit yelling at her accusing her of saying a bad word to his child. This scared the neighbor.

The landlord also testified that she believed that the father of the tenant's children was residing in the unit which is not permitted pursuant to the tenancy agreement based upon a conversation that was overheard by a third party.

Tenant's Evidence:

The tenant disputed the allegations that were the subject of the complaints against her by a blanket denial claiming that they were false. The tenant testified that she did not know what man was yelling and screaming in her backyard giving rise to one of the complaints. The tenant testified that she didn't know anything about the note the neighbor found on her car referring to having sex. The tenant testified that she was home watching a movie and turned it down when the neighboring occupant banged on the wall. She also denied the allegations against her about calling children and other tenants foul names.

The tenant also denied that there is a man living with her in her unit. She testified that the father of the children has stayed with her at her unit from time to time for up to a week at a time. She testified that her step-brother helps out every day with the children but he stopped spending nights there.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows.

I find that there is sufficient evidence that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed other occupants by making noise at unreasonable hours and using foul language and vulgarity towards other occupants and their children. I find that the tenant's behaviour has disturbed the peaceful and quiet enjoyment of other occupants including disrupting their sleep and causing the other occupants to feel unsafe. I find that the interference is significant, particularly, as it has already caused one occupant to move.

In making my findings I have taken into account that there have been seven complaints made against the tenant by four different occupants who raise the same or similar concerns. As the complaints have spanned four months starting after the tenant moved in, I find that the disturbances have caused ongoing interference even after the tenant had been cautioned by the landlord about her behaviour and its impact on other occupants.

I find that the One Month Notice complies with s.52 of the *Act*.

Based upon the foregoing, I am dismissing the tenant's Application and I am upholding the landlord's One Month Notice. As such, I do not need to address the other reasons that the landlord raised for ending the tenancy.

As there was no evidence that the tenant didn't pay her rent for December 2016, I find that the tenant is entitled to remain in the unit until December 31, 2016 at 1:00 p.m.

Pursuant to section 55 of the *Act*, when the landlord's notice to end a tenancy complies with section 52 of the *Act* and I am dismissing the tenant's Application, I am required to grant an order of possession. As a result, I find the landlord is entitled to an order of possession to take effect December 31, 2016 at 1:00 p.m.

Conclusion

I dismiss the tenant's application and uphold the One Month Notice.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **December 31, 2016 at 1:00 p.m.**, subject to service of the order on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 15, 2016

Residential Tenancy Branch