



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

On October 18, 2016, the Tenant submitted an Application for Dispute Resolution asking that a 1 Month Notice to End Tenancy for Cause (“the Notice”) be cancelled, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me. Both parties confirmed they received each other’s evidence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Does the Landlord have cause to end the tenancy?
- Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on December 1, 2015, and is a month to month tenancy. Rent in the amount of \$800.00 is payable on the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$400.00.

The Landlord testified that the Tenant has breached standard terms and material terms of the tenancy. The Landlord is most concerned with repeated abusive and harassing behaviour that the Tenant directs towards him via phone and text.

The Landlord testified that he attempted to deal with the Tenant's behaviour by sending letters to the Tenant in June 2016, and September 2016, explaining that the Landlord finds the Tenant's behaviour unacceptable and requesting that future communication be performed by email only. The Landlord also sent the Tenant an email letter dated September 21, 2016, in an attempt to resolve the tenancy dispute and come to an understanding regarding proper communication.

The Landlord provided copies of the email letters that were sent to the Tenant.

The Landlord testified that the Tenant's behaviour of abuse and harassment continued and escalated creating stress on the Landlord.

The Landlord testified that the Tenant changed the security question and password for accepting the e-transfer for October 2016 rent. The Landlord could not transfer the rent money because the Tenant did not provide the Landlord with the password. The Landlord testified that the Tenant changed the security question to:

"what are you acting like?"

The Landlord testified that the Tenant provided him the password for the e-transfer on October 7, 2016. The Landlord testified that the Tenant changed the password to:

"sneaky little bitch"

The Landlord provided documentary evidence of text communications between the Tenant and Landlord between April 2016, and October 2016. The Landlord submitted that the Tenant's texts were abusive by calling him the following names:

*Creepy Fu**er; Dick; Fu** Off; Stupid; Pig; Slumlord/Scumbag; 12 year old girl; sneaky little Bi**h; Sneaky Fu**; Piece of shit; Fu**in Psycho.*

(my censorship)*

The Landlord testified that in addition to being abusive, the Tenant has harassed him by sending 40 text messages, and calling him repeatedly by telephone.

The Landlord provided digital evidence of voice messages that the Tenant left on the Landlord's voicemail.

The Landlord testified that he issued a 1 Month Notice To End Tenancy For Cause dated October 14, 2016, ("the 1 Month Notice").

The 1 Month Notice indicates that the reason for ending the tenancy is:

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

- Significantly interfered with or unreasonably disturbed another occupant or the Landlord

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the 1 Month Notice within 10 days of receiving it, by applying for Dispute Resolution on October 18, 2016.

The Tenant testified that he received the two page eviction notice, but did not receive a letter of explanation as indicated in the details of the cause section on page 2 of the 1 Month Notice.

The Tenant testified that every tirade he gave to the Landlord was in direct response to the Landlord threatening him.

The Tenant testified that the Landlord does not like him.

The Tenant testified that the Landlord comes onto the property without giving any notice. The Tenant testified that on one occasion the Landlord cleaned off the roof and sprayed everything all over the Tenant's stuff.

The Tenant testified that he was babysitting a puppy in the rental unit for a couple hours per day. The Landlord issued the Tenant a warning letter reminding him that there are no pets allowed.

The Tenant feels that the Landlord is raising the Tenants rent out of spite.

The Tenant testified that rudeness is not a valid reason to evict someone. In response to his communication with the Landlord and the names he called the Landlord; the Tenant stated he "is good with all this".

The effective date of the 1 Month Notice has passed. The Landlord stated that if the 1 Month Notice is upheld, he will agree to give the Tenant additional time to move out of the rental unit. The Landlord testified that he will give the Tenant until January 31, 2017 to move out.

Analysis

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

I find that the disputes between the Landlord and Tenant arose over differences of opinion regarding their rights and responsibilities under the Act, and the tenancy agreement. I find that both the Tenant and Landlord believed their rights or agreement were not being respected. The Tenant testified that that every tirade he gave to the Landlord was in direct response to the Landlord threatening him.

When a Landlord and Tenant cannot resolve a dispute, the proper method to deal with the conflict is to apply for dispute resolution. If the Tenant believed that the Landlord did not have the right to be on the property without providing notice, the Tenant could have applied for Dispute Resolution to have the matter decided. If the Tenant believed that his tenancy agreement permits him to babysit a puppy in the unit, the Tenant could have applied for dispute resolution.

Rather than dealing with the disputes in a reasonable manner, I find that the Tenant's behaviour towards the Landlord escalated into abusive name calling, harassing behaviour and interference. I find Landlord's communication towards the Tenant was reasonable. I do not find that the Landlord escalated the conflict.

While I acknowledge the Tenant's testimony that rudeness is not a reason to evict someone, I find that the coarse nature of the Tenant's comments; the large number of texts and phone calls; and the Tenant's actions of changing the e-banking password, amounts to more than just rudeness. Overall, I find the Tenant's behaviour caused significant interference and unreasonably disturbed the Landlord.

With respect to the Tenant's concern that he never received a letter of explanation with the 1 Month Notice, The Act only requires that the Landlord serve the Notice. The Tenant received the Landlord's explanation within the Landlord's disclosure evidence prior to the hearing.

I dismiss the Tenant's Application to cancel the Notice dated October 14, 2016.

Under section 55 of the Act, when a Tenants application to cancel a notice to end tenancy is dismissed, and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the 1 Month Notice To End Tenancy For Cause dated October 14, 2016, complies with the requirements of form and content.

I find that the Landlord is entitled to an order of possession effective at 1:00 pm on January 31, 2017, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenant was not successful with his application, I dismiss his claim to recover the cost of the filing fee.

Conclusion

I grant the Landlord an order of possession effective at 1:00 pm on January 31, 2017. 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.

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: December 12, 2016

Residential Tenancy Branch