



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On December 15, 2016, the Tenant submitted an Application for Dispute Resolution asking to cancel a 1 Month Notice to End Tenancy for Cause dated December 14, 2016, ("the Notice").

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.

The Tenant testified that she has received the documentary evidence submitted by the Landlord. 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.

Preliminary and Procedural Matters

The Landlord corrected the spelling of his last name on the Tenant's Application. The Tenant agreed to amend the Application to the spelling provided by the Landlord.

The Landlord failed to check a box indicating one of the reasons for ending the tenancy within the 1 Month Notice To End Tenancy for Cause. The Landlord testified that a document titled "Schedule A" was served to the Tenant along with the 1 Month Notice.

The "Schedule A" provides an explanation of the reasons the 1 Month Notice was issued. The Tenant testified that she could not recall if she received the "Schedule A", but she testified that she understood the Landlord issued the Notice To End Tenancy for

the allegation that she has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

Section 68 of the Act permits me to amend a Notice to End Tenancy if the person receiving the Notice knew, or should have known the information that was omitted from the Notice.

I find that the Tenant knew the information that was omitted from the Notice, and therefore amend the 1 month Notice To End Tenancy for Cause dated December 14, 2016, to include the reason that the Tenant, or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

Issues to be Decided

- Has the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord?
- Has the Tenant breached a material term of the tenancy agreement?
- Is the Landlord entitled to an order of possession?

Background and Evidence

The parties testified that the tenancy began on February 1, 2014, and is currently a month to month tenancy. Rent in the amount of \$648.00 is payable on the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$312.50.

The Landlord testified that the Tenant has lived at the rental property for several years and was a Tenant when the Landlord took over management of the building 3 years earlier.

The Landlord testified that there have been no complaints about the Tenant until September 2016, when the Landlord began receiving complaints about loud noise coming from the Tenant's apartment.

The Landlord submitted that the Landlord has received a large number of complaints about the Tenant.

The Landlord provided copies of written complaints that the Landlord has received regarding the disturbances. I have summarized the complaints and dates of the complaints as follows:

September 28, 2016	Unit 305: complaint that Tenant is yelling in her unit at 10 pm
September 29, 2016	Occupant J.H. complaint that Tenant's guest making excessive noise in the parking lot at 7:00 am
October 10, 2016	Unit 305 complaint that Tenant is making excessive noise at 3:00 am.
November 28, 2016	Occupant A.H. complains that Tenant is making excessive noise and police came to remove her boyfriend.
December 5, 2016	Occupant A.H. complaint that excessive noise is coming from Tenant's apartment.
December 8, 2016	Complaints from three occupants that Tenant is making excessive noise between 2:30 am to 5:00 am
December 23, 2016	Complaint from occupant J.H. that Tenant and her boyfriend were loudly arguing in the parking lot
January 1, 2017	Complaint by occupant J.H. that Tenant woke her up due to being loud in the parking lot at 4:00 AM.

The Landlord testified that the Tenant was warned about her behaviour and the disturbances she is causing to other occupants. The Landlord provided documentary evidence of a warning letter that was sent to the Tenant on October 10, 2016, asking the Tenant to keep the noise down.

The Landlord noticed that the Tenant improved following the warning letter, and termination notice that was issued, so he decided to cancel a notice to end tenancy that was issued to her on September 29, 2016.

The Landlord testified that on November 28, 2016, the Tenant started being noisy again and started disturbed other occupants.

The Landlord issued a 1 Month Notice to End Tenancy for Cause to the Tenant on December 14, 2016, by putting the Notice under the Tenant's door.

The 1 Month Notice indicates the reasons for ending the tenancy are:

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

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

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.

The Notice states that the Tenant must move out of the rental unit on January 31, 2017.

The Tenant disputed the 1 Month Notice on December 15, 2016.

The Tenant did not provide any documentary evidence for the hearing. In response to the Landlord's testimony, the Tenant testified that she is doing her best to keep quiet. The Tenant testified that she admits that the first incident of noise did occur.

The Tenant testified that because other occupants keep their windows open so they hear everything.

The Tenants testimony was very brief and unclear, and she did not address much of the Landlords detailed testimony regarding the complaints the Landlord received from other occupants. The Tenant was asked to repeat her testimony on a number of occasions because it was not clear or making sense.

The Landlord also had a difficult time understanding the brief testimony of the Tenant.

I offered the parties an opportunity to settle the dispute under section 63 of the Act, but an agreement could not be reached.

Analysis

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

I find that the Tenant or a person permitted on the property by the Tenant has unreasonably disturbed another occupant or the Landlord.

The Tenant provided brief testimony in response to the Landlord's testimony and evidence that she has disturbed other occupants. The Tenant admitted that she was responsible for one of the incidents of noise. I find that the Landlord has provided the stronger evidence and I find on a balance of probabilities that the Tenant is responsible for all the disturbances to the occupants.

I dismiss the Tenant's Application to cancel the 1 Month Notice dated December 14, 2016. Since the Tenancy is ending under this cause, there is no need to consider the other issue within the Notice.

Under section 55 of the Act, when a Tenant's 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 complies with the form and content requirements under section 52 of the Act.

I find that the Landlord is entitled to an order of possession effective 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.

Conclusion

The Tenant has unreasonably disturbed other occupants in the residential property. I grant the Landlord an order of possession effective 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: January 19, 2017

Residential Tenancy Branch