



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SCENIC VIEW MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

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").

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

Issue to be Decided

- Is the tenant entitled to cancellation of the landlord's One Month Notice?

Background and Evidence

The undisputed evidence established that the tenant moved into the rental unit on or about February 15, 2015 pursuant to a one year fixed term tenancy which has been extended from time to time. The current tenancy agreement is for a fixed term starting March 1, 2017 and ending August 31, 2017. Rent in the amount of \$787.19 is due on the 1st day of each month. The tenant paid a security deposit in the amount of \$382.50 on August 7, 2015.

The undisputed evidence established that on March 18, 2017 emergency responders attended at the tenant's unit around midnight in response to a 911 call. A guest of the tenant is believed to have overdosed on heroin. When the emergency responders arrived, the parties inside the unit were incapacitated so the responders had to break

down the door. The landlord testified that the incident caused a significant disturbance to the other occupants in the building.

As a result of the incident, the landlord issued a One Month Notice on March 22, 2017, with an effective date of April 22, 2017. The landlord testified that a copy of the One Month Notice was posted on the tenant's door on March 22, 2017. The tenant acknowledged receipt of the notice on March 23, 2017. The landlord's reasons for ending the tenancy stated in the One Month Notice are 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;
- put the landlord's property at significant risk.

The landlord testified that the tenant's guest has since returned to the property on a regular basis looking for the tenant. The landlord testified that she has refused this individual access to the building. The landlord testified that on each occasion this individual has caused a significant disturbance by yelling, screaming and issuing threats against the landlord, including murder. The landlord testified that they had to call the police as this individual was intoxicated and very volatile. The landlord testified that she is concerned for her own safety and that of the other occupants in the building if this unwanted guest keeps returning to the property.

The landlord testified that the tenant was also served a caution for a noise disturbance the weekend prior to this hearing. The caution arose as a result of another tenant complaining about the loud noise coming from the tenant's unit into the late hours disturbing their sleep.

The tenant testified that she had been helping out the guest who is believed to have overdosed. This guest was accompanied by the second individual who called 911. The tenant testified that she was not home when the incident occurred. The tenant testified that she had left the two individuals in her home alone for a couple of hours when the incident took place. The tenant testified that she wasn't aware that her guests would be using heroin and that they did not have her consent or approval to do so.

The tenant argued that she admits that she made an error in judgement, but that the tenancy should not end as a result. The tenant testified that she felt ashamed and remorseful. The tenant testified that she would not intentionally invite an unsavory person into her unit.

The tenant testified that she has cut off all contact with the guest who caused the disturbance and that she has not had the guest in her unit since the incident. The tenant testified that she doesn't want any association with this individual and has returned their belongings that were in her unit. The tenant argued that there is no evidence that she is still associating with this unwanted guest.

The tenant argued that she should not be blamed for another individual's actions, particularly since she has cut ties with this individual.

The tenant testified that this guest knows others in the building and not just herself.

The landlord does not believe that the connection between this tenant and the unwanted guest has been severed.

The tenant is seeking cancellation of the landlord's One Month Notice so that the tenancy may continue.

Analysis

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

Pursuant to section 47(1) (d) of the *Act*, a landlord may end a tenancy if one or more of the following applies:

- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;

I find that there is sufficient evidence to satisfy me that the tenant permitted a person onto the property who has significantly interfered with or unreasonably disturbed another occupant or the landlord; and put the landlord's property at significant risk. In making this finding, I have taken into consideration the incident that occurred on March 18, 2017 which is not disputed. I accept that the incident which occurred around midnight disturbed the other occupants in the building, particularly, when the door to the unit was broken in half to gain entry. I find that the tenant's guest put the landlord's

property at significant risk based on the actual damage to the door. I have also taken into consideration the illegal nature of the heroin use that gave rise to the incident.

While the tenant may have severed her association with the unwanted guest, I find that the tenant is still responsible for inviting this guest onto the property in the first place. The ongoing disturbances caused by the unwanted guest stem from the tenant's past association with this individual even though there may be no current association. I have also taken into account the fact that a subsequent complaint was made against this tenant for causing a noise disturbance interfering with another occupant's sleep.

Based upon the foregoing, I find that the tenant is not entitled to cancellation of the One Month Notice and the tenancy will end pursuant to section 47(1)(d) of the *Act*. Therefore, I dismiss the tenant's application.

When a tenant's application to dispute a landlord's notice to end a tenancy is dismissed, s. 55 of the *Act* requires me to grant an order of possession if the landlord's notice to end a tenancy complies with section 52 of the *Act*.

I find that the landlord's One Month Notice complies with section 52 of the *Act* and that it is valid. Therefore, I find that the landlord is entitled to an order of possession, effective 2 days after service of the Order on the tenant, pursuant to section 55 of the *Act*.

Conclusion

The tenant's application is dismissed and the tenancy will end.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective two days after service of this Order upon 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 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: May 12, 2017

Residential Tenancy Branch