



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BIVIORA HOLDING CO. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

The tenant submitted an Application for Dispute Resolution (the “Application”) under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated April 24, 2017, the (“1 Month Notice”).

An agent for the landlord (the “agent”), the tenant and a tenant advocate attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me.

The parties confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence. I find the parties were sufficiently served in accordance with the *Act*.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

A fixed term tenancy began on June 13, 2016 and reverted to a month to month tenancy after November 13, 2016.

The tenant confirmed that she was served with the 1 Month Notice on April 24, 2017 and disputed the 1 Month Notice on May 2, 2017. The landlord listed two causes on the 1 Month Notice, namely:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The agent referred to a March 22, 2017 "Breach Letter" (the "breach letter") which the tenant confirmed having received and which was submitted in evidence. The agent testified that the breach letter included three different police incidents described as police incident 1, 2 and 3. The agent described police incident 1 as the police having to be called on February 16, 2017 to the rental unit which the tenant confirmed was due to her partner who I will refer to in this decision as T. The tenant confirmed that T suffers from paranoid schizophrenia and that he thinks that everybody is out to get him at times and it is very hard for her and other tenants when he is like that.

The tenant testified that she sometimes has to call the police to have T removed due to his sickness and that this is when he has no recollection of events so she has to have him removed from the rental unit. The tenant denies being afraid of T, however according to the agent, the agent has personally heard loud fighting between the tenant and T. The landlord also submitted in evidence several letters from other occupants in the building including neighbours of the tenant who also claim that have heard arguing, yelling, screaming and other disturbances coming from the tenant's rental unit.

In one of the letters, another occupant, J.C. claims that she will have to move if something is not done about the tenant and her guests and writes in part that the "violent incidents have made me feel quite unsafe in the building" and that she has made numerous complaints via telephone but the behaviour continues.

The agent referred to police incidents 2 and 3 which occurred on separate days in March 2017 according to the agent. The tenant claims that she does not recall the police attending the rental unit on either occasion and later changed her testimony by stating the police attended the rental unit "in relation to a stolen watch I believe." The tenant was unable to provide a police file number for that alleged incident while the agent provided two police business cards with police file numbers which reflect two separate dates, February 16, 2017 and March 21, 2017.

Regarding the March 21, 2017 police incident the tenant claims she was home and later changed her testimony that she wasn't home and that when the police attended in the time when she was home they "said nothing" to her.

Since serving the tenant with the 1 Month Notice, the agent states there has been three additional instances when the police attended the tenant's rental unit. The first two the agent described as May 13, 2017 and May 14, 2017. The agent stated that on May 13, 2017 the police attended the rental unit due to loud screaming and yelling to which the tenant claims she didn't recall that. The agent stated that on May 14, 2017 the police again attended at the rental unit to escort T out of the building. The tenant testified that she did not recall that incident and stated that sometimes T's sickness results in her calling the police to get him out to stay somewhere else. The tenant would only agree to T having been removed from the rental unit on one occasion.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant disputed the 1 Month Notice within the 10 day timeline provided for under the *Act* the onus of proof then reverts to the landlord to prove that the 1 Month Notice is valid. The landlord is only required to prove one of the listed causes for the 1 Month Notice to be valid.

In the matter before me, I find the agent's testimony and supporting documentary evidence is consistent and compelling. On the contrary, I find the tenant's testimony to inconsistent and vague. For example, the tenant claims she does not "recall" whether the police attended on two occasions less than one month before this hearing. Another example is when the police attended and "said nothing" to her which I find unbelievable that the police would attend her rental unit and not say anything to her. Therefore, I prefer the testimony of the agent over that of the tenant as a result. I find that given the letters submitted by other occupants and the testimony of the agent that I am satisfied 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.

Given the above, I dismiss the tenant's Application to cancel the 1 Month Notice as I find the 1 Month Notice is valid. The effective vacancy date listed on the 1 Month Notice was May 30, 2017 and as a result and pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **two (2) days** after service on the tenant.

I do not find it necessary to consider the second cause listed on the 1 Month Notice as a result of the above.

Conclusion

The tenant's Application is dismissed.

I uphold the 1 Month Notice issued by the landlord. The tenancy ended on May 30, 2017 which is the effective vacancy date listed on the 1 Month Notice.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in 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: June 7, 2017

Residential Tenancy Branch