



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNDC, RP, LRE, OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony and confirmed receipt of the notice of hearing package for the re-scheduled hearing. At the outset, the tenant's counsel stated that the first two documentary evidence packages could be excluded from this hearing as they will be relying solely on the 3rd documentary evidence package. The landlord acknowledged her understanding. The tenant's counsel (the tenant) stated that the documentary evidence package was served to the landlord in person on June 1, 2017. The landlord and her agent both confirmed receipt of the tenant's documentary evidence package of approximately 120 pages and a copy of a DVD. The landlord's agent (the landlord) stated that the tenants were served with the 42 page documentary evidence via Canada Post Registered Mail on April 29, 2017. The tenant confirmed receipt of the landlord's documentary evidence. I accept the undisputed testimony of both parties and find that both parties have been properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and of the Act.

Preliminary Issue(s)

The tenant withdrew her request for a summons for a witness. As such, no further action is required for this request.

Both parties consented to the landlord's name, S.C. being added to the tenant's application for dispute regarding the named landlord. As such, the landlord's name shall be added as a respondent in this hearing.

At the outset the tenant cancelled the request for repairs (RP) and to suspend or set conditions on the landlord's right to enter the rental premises (LRE) as these issues have been resolved. As such, no further action is required for these requests.

At the outset, the tenant was asked to clarify how the tenant's monetary claim was related to the request to cancel the 1 Month Notice. RTB Rules of Procedure 2.3 states that "if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply." In this regard I find that the tenant has applied for a monetary order for money owed or compensation for damage or loss. As this section of the tenant's application is unrelated to the main section which is to cancel the notice to end tenancy issued for cause, I dismiss this section of the tenant's claim with leave to reapply.

The hearing shall proceed only on the tenant's request to cancel the 1 Month Notice. The landlord seeks a finding to uphold the 1 Month Notice and an end to the tenancy.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 Month Notice?

Is the landlord entitled to an order of possession?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on April 1, 2016 on a fixed term tenancy as per the submitted copy of the signed tenancy agreement. The monthly rent is \$780.00 payable on the 1st day of each month. A security deposit of \$390.00 was paid on March 12, 2016.

Both parties confirmed that the landlord served the tenant a 1 Month Notice dated March 29, 2017 via Canada Post Registered Mail on March 29, 2017. The 1 Month Notice sets out an effective end of tenancy date of May 30, 2017, but that both parties have agreed that the landlord has given verbal notification to the tenant that the effective end of tenancy date was being extended to June 30, 2017. The 1 Month Notice sets out the reasons it was given as:

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

Included on the 1 Month Notice under details of cause it states,

Complaints received from other tenants in the building. Tenants threatening to vacate if situation not dealt with.

The landlord claims that the issue of the tenant breaching a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so was that the tenant had installed a washer/dryer in the rental property without permission of the landlord. The tenant disputed this stating that although she did have the washer and dryer that it was not “hooked up”. The landlord was unable to provide any evidence to support this claim and was not able to identify a particular term of the tenancy agreement which the tenant was breaching.

The landlord also provided testimony that the 1 Month Notice dated March 29, 2017 relies upon a culmination of different issues regarding multiple tenants of the rental property. The landlord relies upon the written complaints of 6 tenants out of the 7 rental unit building primarily to show that the tenant’s actions have resulted in an unreasonable disturbance of other occupants (Tenants).

Complainant Tenant letter #1 (P.A.) provided both written and verbal testimony that the tenant’s conversations with her were primarily of complaining about the landlord. P.A. repeatedly stated that this tenant harassed her by constantly complaining to her about the landlord, the conditions of the rental unit and that compensation could be obtained from the landlord.

The tenant disputed this claim stating that her last interaction with P.A. was in November of 2016. This was confirmed by P.A. The tenant argues that the landlord has not provided any warnings except on May 24, 2016.

Complainant Tenant letter #2 (A.O.) provided a written statement in which he notes that the tenant

...is knocking on his door during unreasonable hours or yelling over the balcony at visitors...the lady in unit 203 knocked on my door and tried scaring me into making a complaint against management about bed bugs, she claimed that I would be able to "pay half of my rent," or even get "my rent for free," If I made a claim against the management with her.

Complainant Tenant letter #3 (M.K.) provided both written and verbal testimony that the tenant has bothered her and stressed her due to the tenant's actions and as a result is fearful of the tenant because of text messages sent to her.

A while ago, she would send me text messages while at work. This really bothered me, stressed me. I hardly responded to these messages, especially after feeling kind of threatened. I still do not feel safe when I come home from work in the night...I have never lived with this kind of fear. I hardly open the door for anyone. I have to make sure I know who is knocking on the door. just to be sure due to the fear.

Complainant letter #4 (R.) provided a written statement in which he states,

Since I come home from the hospital, the new tenant in unit 203 across from me start to give me trouble and give me mean looks. She complains to the landlord about me that mouse and bed bugs are still coming from my unit and into hers. When I go out, she comes out from her unit to say things to me. She says I am dirty, loud and use bad language. I watch her leave before I leave my home because I do not want her to yell at me. She watches me all the time. She makes me feel uncomfortable in my own home...

The tenant has argued that this complainant's issues are ambiguous and is unable to address them. The tenant stated that at no time has the landlord given any warnings regarding complaints filed by other tenants.

Complainant letter #5 (V.C.) provided written and verbal testimony that the tenant is harassing her. She feels "unsafe" in the building as the tenant has shown rude

behaviour to the tenant and has filed complaints with the ministry which were proven false where the tenant complained that she and her partner were abusing their son. The complainant stated that the tenant is “peering over the balcony watching us enter/exit the building, monitoring the parking lot, knocking on our doors, or slandering each unit...”

The tenant has commented that at no time has the landlord given any warnings of these issues made by the complainant.

Complainant letter #6 (G.T.) a service provider to the rental building provided a written statement which states that the tenant attended his home on April 12, 2017 about 10 pm demanding that I give her a letter stating that her building was not in good condition.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the undisputed evidence of both parties and find that the tenant was properly served with the 1 Month Notice dated March 29, 2017. This notice sets out 3 reasons for cause as listed above where the tenant has breached a material term of the tenancy agreement which was not corrected after written notice to do so; significantly interfered with or unreasonably disturbed another occupant; seriously jeopardized the health or safety or lawful right of another occupant.

I find based upon the evidence of both parties that the landlord has failed under the reason for cause of breaching a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so. The landlord has claimed that the tenant installed a washer/dryer inside her rental premises without permission. The landlord was not able to provide sufficient evidence of a material term being breached or any evidence that the washer/dryer was “hooked up” and in use which was disputed by the tenant. I find in this case, the landlord has failed to meet their burden for proof that the tenant breached a material term of the tenancy.

I also find based upon my review of the submitted documentary evidence and the testimony provided by both parties that it is clear that a majority of the occupants of the rental building have expressed that they have suffered a significant interference or have been unreasonably disturbed by the actions of the tenant. This is shown in some form within each of the complaint letters and submissions provided by the landlord. The tenant did not dispute the claims of the complainants. Although some aspects of the

complaints were ambiguous, it is clear that each occupant has expressed a concern over the tenant's actions and that the tenant has unreasonably disturbed them. As such, I find on a balance of probabilities that the landlord has established a claim that the tenant has significantly interfered with or unreasonably disturbed another occupant. The tenant's application to cancel the 1 Month Notice dated March 29, 2017 is dismissed. The 1 Month Notice is upheld.

Pursuant to Section 55(1) of the Act, I grant an order of possession to the landlord. As the effective end of tenancy date has passed, the tenant must comply within 2 days of being served with this order.

Conclusion

The tenant's application is dismissed. The 1 Month Notice dated March 29, 2017 is upheld. The landlord is granted an order of possession.

This order must be served upon the tenant. 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: July 13, 2017

Residential Tenancy Branch