



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on August 18, 2017 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated August 8, 2017 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing on his own behalf. The Landlord was represented at the hearing by G.G. and S.R., agents. All in attendance provided a solemn affirmation at the beginning of the hearing.

The Tenant testified that the Application package was served on the Landlord by registered mail. On behalf of the Landlord, G.G. confirmed receipt. On behalf of the Landlord, G.G. testified the Landlord's documentary evidence was served on the Tenant by registered mail. The Tenant acknowledged receipt. No further issues were raised with respect to service or receipt of the above documents. Pursuant to section 71 of the *Act*, I find the parties were sufficiently served with the above documents for the purposes of the *Act*.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice?
2. Is the Landlord entitled to an order of possession, by operation of section 55 of the Act?

Background and Evidence

The parties agreed the tenancy began on October 1, 2013. Rent in the amount of \$1,750.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$875.00, which the Landlord holds.

The rental property is not occupied by the Tenant. Rather, the Tenant entered into the tenancy agreement to provide housing for youth with mental health and other issues. Two staff provide support at the rental property.

On behalf of the Landlord, G.G. testified that on August 8, 2017, some youths residing at the rental property threatened and swore at customers and employees of an adjacent business, as well as the owner of the rental property. According to a type-written statement submitted by the Landlord:

The youths made the following threats “we will put you 6 feet under”, “we will stomp you” and “we will burn your business to the ground”...

[Reproduced as written.]

On the day of the incident, the Tenant wrote to the owner of the rental property. His email stated:

I am reaching out to you to extend my sincere apology on behalf of the youths who was inexcusably, and aggressively, rude and disrespectful to you, your employees, and your customers.

...

I understand you wish to end the tenancy agreement – I respect and understand that decision. No one should have to feel intimidated, threatened, or unsafe in their place of work – or anywhere for that matter.

[Reproduced as written.]

Further, in an email response from the owner of the property to the Tenant, dated August 9, 2017, the owner wrote:

They threatened to burn our place down, put us 6 ft under to use there words, to not only to me but to several of my employees...People that were walking down the street could not believe what was happening, 5 police cars and a fellow in the apartment across the street said they just threatened to kill you folks and said he would be a witness.

[Reproduced as written.]

As a result of the incident, the Landlord issued the One Month Notice, which was served on the Tenant by posting a copy on the door of the rental property on August 8, 2017. The One Month Notice was issued on the bases that a person permitted on the premises by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord; or has engaged in illegal activity that has jeopardized a lawful right or interest of another occupant or the landlord. Each of the parties submitted a copy of the One Month Notice into evidence.

The Tenant testified he was unable to share the identity of the youths involved in the incident due to privacy concerns, suggesting these concerns trumped the Landlord's right to know how many individuals occupy the rental property. However, the Tenant acknowledged during the hearing that the youths were "swearing, using loud, foul, inappropriate language." He testified that one individual at the center of the incident was in crisis, and that the individual has experienced "immeasurable injustices" in his life. Further, the Tenant testified the incident escalated when a customer of the nearby business "engaged" the youth and made a gun gesture with his fingers. According to the Tenant, the incident was observed by two staff members who were following the plan of care, may have been captured on video surveillance, and was recorded in an incident report. The staff who observed the incident did not attend, and no video surveillance or incident report was submitted into evidence.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause in the circumstances described therein. In this case, the Landlord issued the One Month Notice on the bases listed above.

After careful consideration of the evidence tendered by the parties, I find there is insufficient evidence before me to cancel the One Month Notice. I find the Landlord has adduced sufficient evidence to conclude that at least one person permitted on the premises by the Tenant significantly interfered with or unreasonably disturbed the owner of the rental property, and seriously jeopardized the safety or lawful right of the owner.

Indeed, it was not disputed that at least one occupant of the rental property made threatening remarks to the owner, which included threats of physical violence and damage to the owner's business. The Tenant wrote to the owner of the rental property the same day, offering his regrets for the youths' "inexcusably, and aggressively, rude and disrespectful" behaviour toward the owner.

Accordingly, I find the Tenant's Application is dismissed, without leave to reapply. When a tenant's application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Tenant's Application is dismissed. Pursuant to section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: November 10, 2017

Residential Tenancy Branch