



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Langley Lions Senior Citizen Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on December 7, 2017. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (The Notice)

Both sides were represented at the hearing. All parties provided affirmed testimony and were given a full opportunity to be heard, to present evidence and to make submissions.

The Tenant did not present any documentary evidence. The Landlord provided an evidence package to the Tenant on November 24, 2017, in person. The Tenant acknowledged receipt of this package.

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.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord issued the Notice for the following reasons:

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

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

- put the landlord's property at significant risk.

And, that the Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The Tenant acknowledged receiving the Notice on September 13, 2017. The Notice listed the effective date as October 31, 2017.

In the hearing, the Landlord testified that the Tenant was overheard and observed selling an illegal substance to a person (not a resident) that he had let into the building. The Landlord stated that the rental building is located in a high crime area, and that the building is run by a non-profit society which aims to house senior citizens and people with disabilities. The Landlord stated that many of the residents in the building are vulnerable members of society and struggle with addiction problems. The Landlord stated that they make every effort to keep drugs off the premises, but it is a constant struggle.

The Landlord provided a copy of the Tenancy Agreement, which includes a crime free addendum, to help make it clear to tenants what they can and cannot do while living there. The Landlord stated that by selling drugs on the premises, the Tenant has jeopardized the health and safety of other tenants, who are vulnerable in general. The Landlord indicated that they have had problems in the past with people from outside the unit coming inside to obtain drugs and to try and get money from tenants in the building.

The Landlord brought the caretaker of the building, L.V., to the hearing to provide affirmed testimony of what he observed on the day of the incident, September 13, 2017. The Landlord also provided an incident report written by L.V. as part of her evidence. L.V. indicated in his incident report, and in his oral testimony that:

- he observed a young man get buzzed into the building
- he followed the young man, and this man entered the Tenant's unit
- he waited outside the Tenant's door and directly heard the conversation the Tenant was having with the young man he just let in
- there was conversation indicating there was a transaction taking place
- L.V. heard that it was "\$40.00 per bag" and "each bag is 7 grams"
- The young man responded by saying that this was about a quarter ounce
- L.V. then heard someone tell the young man that there was only 3 bags available but the young man said this "would do for now"
- L.V. then saw the young man leave the Tenant's unit with a plastic container in his hand
- L.V. confronted the Tenant directly and said that he heard what just happened, and that there was a drug deal

- L.V. escorted the young man off the property and told the Tenant that he would be getting an eviction notice for this incident.
- The Tenant then approached L.V. and said that he was sorry and that it wouldn't happen again
- L.V. feels this was confirmation that it was in fact a drug deal

During the hearing, the Tenant testified that he did not sell drugs to the young man that L.V. saw entering his unit. The Tenant stated that he wasn't selling anything, and that he was just giving the young man a container of cigarette butts.

The Landlord stated that it does not make sense that someone from outside the building would come to visit the Tenant just for cigarette butts. The Landlord stated that most people in the building are 55+ and it seemed odd that there was a young man in his late teens coming to the Tenants unit, to leave shortly after with a container in his hands.

Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid.

Although the Landlord issued the Notice for several reasons, I turn to the following ground, given that it is the ground that most of her evidence relates to:

The Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

Upon review of the evidence before me, it is clear the Tenant's testimony directly conflicts with the evidence from the Landlord. The Tenant refutes the Landlord's claims and says that he was just giving a friend a container of cigarette butts, rather than dealing drugs. After looking at the totality of the evidence, I find the Landlord has provided a more compelling, detailed and credible version of events. The Landlord provided a detailed incident report, written immediately after the incident, as well as oral testimony from the caretaker, L.V., who was present at the time. L.V. heard and recorded particulars of the transaction that occurred (quantity, price etc.), as well as the conversation he had with the Tenant after the incident occurred. I note the Tenant denied that it was an actual drug transaction in the hearing. However, based on the totality of the evidence before me, and on a balance of probabilities, I find it more likely than not that the Tenant was selling some sort of illegal substance at the time. I find it unlikely that the Tenant was merely giving a friend, from outside the building, a container of cigarette butts. The Tenant's statements on this matter do not have the ring of truth.

Ultimately, I prefer the Landlord's evidence on this matter, and I find the Landlord has sufficient cause to issue the Notice. After considering the nature of the housing complex, and the vulnerability of many of the other residents, I find the Landlord has sufficiently demonstrated that the Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

Given my findings thus far, it is not necessary to consider the remaining grounds on the Notice.

The Tenant's application to cancel the Notice is dismissed. The tenancy is ending.

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 Notice complies with the requirements of form and content. The landlord is entitled to an order of possession.

Conclusion

The Tenant's application to cancel the 1-Month Notice to End Tenancy for Cause is dismissed.

The landlord is granted an order of possession effective **December 31, 2017, at 1pm**, after service on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: December 12, 2017

Residential Tenancy Branch