



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LEWIS APTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

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 ("1 Month Notice") pursuant to section 47.

Both parties attended this hearing. The tenant was permitted to present evidence and make submissions on behalf of his application. Two representatives attended on behalf of the landlord. The landlord acknowledged receipt of the tenant's Application for Dispute Resolution package.

Issue(s) to be Decided

Should the landlord's 1 Month Notice to End Tenancy be cancelled?
Or is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began on April 7, 2017 as a month to month tenancy with a rental amount of \$685.00. The landlords continue to hold a half months' rent as a security deposit made by the tenant at the outset of this tenancy. The landlord PB testified that there have been multiple complaints about this tenant over the course of his tenancy and that, as a result, the landlords issued a 1 Month Notice to End Tenancy for Cause on the grounds that;

Tenant or a 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.*

Within the 1 Month Notice, the landlords included an explanation for seeking to end the tenancy under the above grounds. The landlords wrote that the tenant has a problem understanding

regulations and notices that are provided to him. In the landlord's testimony, Landlord JB stated that the tenant won't change his behaviour even after a significant amount of warning letters and notices.

The landlords relied on the documentary evidence that they submitted for this hearing that includes but is not limited to written complaints by two different neighbours within the last 2 months; a notice to request items be removed from the tenant's balcony including a copy of the part of the tenancy agreement that applies to such items; a notice regarding the continual ringing of the fire alarm within the tenant's rental unit and emergency reports by police and fire as a result of incidents of neglect or poor behaviour on the part of the tenant.

Landlord JB testified that the tenant's daily behaviour is generally not behaviour that is acceptable in common living situations. He testified that they receive constant noise complaints with respect to this tenant's loud music. The landlord described a scenario where the tenant blocked the entrance to the residence by parking his scooter in front of the intercom to the apartment building. Landlord JB testified that several verbal and written warnings have been provided to the tenant. Landlord PB testified that there has been more than one occasion when the tenant has left a pan on the stove, causing it to catch fire. She testified that, on the last occasion, a neighbour told the tenant how to put the fire out when he had simply moved the fiery pan to the patio.

One other occupant of the residential premises testified as a witness in this matter. Witness SG testified that he has complained often to the landlords regarding this tenant. He testified that on more than one occasion, the smoke detector has gone off in the tenant's unit as a result of an actual fire. He testified that he was the person who saw fire on the tenant's patio and called to the tenant to put the fire in the pan out.

The tenant testified that he doesn't make noise: it is other tenants who make noise. He testified that he does not have his music full blast all the time, as stated by the landlords and the landlords' witness. The tenant testified that the pan fire in the balcony was not his fault as he had left his roommate in charge of the pan. He testified that his scooter (actually an e-bike) was left longer than he had originally expected because he got a phone call after he left it in the entrance. He testified that the witness for the landlord is mean and prejudiced against him. He also testified that he has a note signed from the landlord that he is allowed to stay in the rental unit until the New Year.

Both representatives in attendance at this hearing confirmed that the landlord/owner had signed a handwritten note put in his face by the tenant but that he did so simply to stop the tenant bothering him at that particular time. Further, they stated in sworn testimony that they have full authorization to proceed with this hearing and seek to end this tenancy.

Analysis

When a tenant applies to dispute a notice to end tenancy the burden shifts to the landlord to prove that the tenancy should end and that the notice to end tenancy is justified. In this case, the landlords have both provided sworn testimony and their testimony has raised the same concerns with respect to the tenant. The landlords also provided a witness who corroborated the landlords' version of events and spoke to the ongoing disruption caused by the tenant. The landlord supplied documentary evidence to support the claim that they have received complaints regarding the tenant's noise from the unit. They have also supplied copies of warning letters and described attempts to curb the tenant's behaviour to avoid ending his tenancy. Finally, the landlords have substantiated, largely undisputed evidence regarding a small fire caused by the tenant illustrating the tenant's risk to the premises and the occupants inside the premises.

Based on all of the information provided at this hearing, I find that the landlord has shown, on a balance of probabilities that the tenant has significantly disturbed another occupant within the building. As I have found that the landlord has sufficient grounds to support their notice to end tenancy, the tenancy would have ended on the 1 Month Notice effective date of November 30, 2017. As the tenancy has not yet ended, I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant pursuant to section 55 of the Act.

Conclusion

I dismiss the tenant's application in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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: January 4, 2018

Residential Tenancy Branch