



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANGLEY LIONS SENIOR CITIZENS HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession earlier than a notice to end the tenancy would take effect.

The landlord was represented at the hearing by an agent who gave affirmed testimony, and was accompanied by an observer who did not testify or take part in the hearing. The tenant also attended and gave affirmed testimony. The parties were given the opportunity to question each other and make closing submissions.

The landlord has provided evidentiary material outside the time limit for doing so, and testified that the tenant has also received it. The landlord testified that due to the nature of the application it was provided to show continued breaches by the tenant or the tenant's guests. The tenant did not oppose inclusion of any of the evidence, and I find it new and relevant. All evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the tenancy should end earlier than a notice to end the tenancy, or the hearing of a dispute for such a notice, would take effect?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on September 1, 2012 and the tenant still resides in the rental unit. Currently, subsidized rent is payable on the 1st day of each month in the amount of \$320.00 and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$225.00 which is still held in trust by the landlord, and no pet damage deposit

was collected. The rental unit is one of 95 apartments in a seniors' housing complex, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on November 30, 2017 the tenant was personally served with a One Month Notice to End Tenancy for Cause, a copy of which has been provided for this hearing. It is dated November 30, 2017 and contains an effective date of vacancy of December 31, 2017. The reasons for issuing it state:

- 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;
 - put the landlord's property at significant risk;
- 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 has disputed it, and a hearing is presently scheduled for February 6, 2018. However, prior to and since it was issued, continued complaints are received by the landlord's employees and security personnel with respect to on-going and continual traffic connected to the rental unit starting in late November, 2017. People are witnessed coming and going all day and night and passing off items that the landlord's employees and other tenants believe to be drug trafficking. Security personnel found people propping open outside doors, waiting in the lobby, receiving a phone call and going to the door that was propped open. Photographs have also been provided by the landlord.

The tenant's power has been disconnected and the tenant has run an extension cord to the common area of the rental complex.

On or about December 8, 2017 a drug raid was executed on the tenant's apartment which went on for a few hours. Police busted in and removed people around 4:00 p.m. An ambulance was also in attendance due to possible overdoses, but no one was taken away in ambulance. The tenant was also arrested once she arrived home, and this drug raid was what prompted this application. The tenant later told staff at the apartment building that it was a drug raid and nothing was found, but the tenant had to go to Court, but the landlord's agent has no direct knowledge of that.

Traffic prior to and after the notice to end the tenancy was issued, and from December 8 up to December 11 was ridiculous. Syringes have been found, blood in halls, and people threatening each other. On December 11 some tenants complained that the tenant

accused them of having called police and threatened, or at least confronted them in a threatening manner. A lot of the tenants are vulnerable, senior people and those with disabilities, and the tenant and her guests are definitely a threat. Copies of incident reports have also been provided as evidence for this hearing.

The landlord's agent also testified that a One Month Notice to End Tenancy for Cause was previously issued to the tenant, which was disputed by the tenant, and the resulting Decision has been provided as evidence for this hearing. It shows that the notice was issued on June 27, 2017 and the Decision is dated September 29, 2017. The dispute settled, the notice was cancelled and the tenant agreed to abide by certain conditions:

1. "The tenant agreed to ensure that her visitors buzzed her at the front door, did not wait or gather in the parking area and entered the building through the front door;
2. The tenant agreed not to meet any visitors in the parking area;
3. The tenant agreed not to have overnight guests more than 13 times a year;
4. The tenant agreed that she understood that the landlord will serve her with another notice to end tenancy if she is non-compliant with the terms of this agreement;
5. Both parties stated that they understood and agreed that these particulars comprise the full and final settlement of all aspects of the dispute."

The tenant has not taken responsibility for her guests and continued drug trafficking is still an issue, and the landlord seeks an Order of Possession.

The tenant testified that her friend stayed with her for awhile, whose boyfriend had recently passed away. The guest stayed for awhile, and left and then returned. The friend also spent the night last night in the rental unit and was threatened by another tenant who kept her sequestered at the elevator. The tenant didn't witness that but was told by the guest. The tenant agrees that the calculation of the number of nights an overnight guest could stay according to the settlement agreement made on September 29, 2017 has been overextended, but the tenant didn't think of that at the time.

The police found no drugs in the rental unit or on the tenant's person, and the tenant is not charged with any offence. Some years ago, the tenant's son was staying in the rental unit but the tenant removed him immediately upon the request of the landlord due to alleged drug use, so it makes no sense that the tenant would have drugs in her possession. The tenant's friend was present and was arrested and later released. One of her friends was also present, but no others. No one was taken away in an ambulance. To the best of the tenant's knowledge, the friend is not a drug user, and the tenant has no knowledge of the friend meeting people in the lobby or propping open doors. When asked if the friend was going out at 2:00 a.m. and meeting people, the tenant testified that she was sleeping and if someone wants to go out at 2:00 a.m., she's free to do that. The tenant was only helping

her out. The tenant has no knowledge of who may have put rocks in the door to prop it open.

The tenant's electricity was cut off yesterday and the tenant has to pay \$98.00 to have it reconnected, which will be rectified today.

The tenant denies threatening anyone and testified that her neighbours like her. She is generally helpful and cuts hair for some neighbours for free. The allegations of the landlord are false, and the tenant has complied with the settlement agreement made in September, 2017. The tenant is bi-polar and feels targeted and treated unfairly.

Analysis

It is not for me to decide whether or not the landlord has issued the One Month Notice to End Tenancy for Cause in accordance with the *Residential Tenancy Act*; that matter is already scheduled for hearing on February 6, 2018. The issue for me to decide is whether or not the landlord has established that since its issuance, incidents serious enough have taken place that warrant ending the tenancy earlier than a month from now, which may or may not be ordered at the February 6, 2018 hearing.

I have reviewed all of the landlord's evidentiary material, including incident reports. No evidence has been provided by the tenant, however affirmed testimony is evidence as well.

The tenant does not dispute that there were arrests made at the rental unit on December 8, 2017, although perhaps no one was charged with an offence. The landlord's agent also testified that on December 8, 2017, a pool of blood was found in the elevator and a trail leading to or from the tenant's rental unit, syringes and other drug paraphernalia in the immediate area of the common doors and dropped in the hallways.

The tenant testified that she has complied with the settlement agreement made in September, 2017, with the exception of calculating the number of days in a year that her friend stayed in the rental unit, but I'm not convinced that is a reason for ending the tenancy earlier than the February 6, 2018 hearing date.

A tenant is responsible for the tenant's guests regardless of any settlement agreement made. The *Act* allows a landlord to end a tenancy if the tenant or the tenant's guests disturb or interfere with other occupants, or engage in illegal activity that has or is likely to adversely affect other occupants, and a landlord has an obligation to deal with such incidents. In this case, I find that the tenant takes no responsibility for the actions of her friends and testified that if her friend wants to go out at 2:00 a.m. she can do so. I am also satisfied that so long as the tenant's friend continues to frequent the building, the incidents

will continue to occur whether or not the tenant is involved in the trade or is a drug user or has any knowledge of her friend's activities in and around the rental complex. I am also satisfied that other tenants, who are vulnerable, some elderly and some with disabilities, continue to be disturbed, and will continue to feel threatened in their own homes. Due to the continued activity and the tenant's failure to take any responsibility for her guest, I find that the landlord has established that it would be unreasonable and unjust to await the hearing on February 6, 2018, and the landlord is entitled to an Order of Possession on 2 days notice to the tenant.

The parties agreed that they understood that if I find that the landlord is entitled to an Order of Possession sooner than February 6, 2018, the hearing on that date will be cancelled, provided that is the only application scheduled to be heard. I have reviewed the application scheduled for February 6, 2018 to confirm that no other relief is sought by either party. The application of the tenant seeks to have the One Month Notice to End Tenancy for Cause cancelled, as well as for an order that the landlord comply with the *Act*, regulation or tenancy agreement. Since the tenancy is ending, the hearing on February 6, 2018 is cancelled.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

This order is final and binding and may be enforced.

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 12, 2018

Residential Tenancy Branch