



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORTLAND HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

The tenant submitted an Application for Dispute Resolution (“application”) under the *Residential Tenancy Act* (“Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated November 3, 2017 (“1 Month Notice”).

An agent for the landlord (“agent”), the tenant and a tenant advocate attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me.

The agent testified that the landlord uploaded documentary evidence which the agent was advised was not uploaded as evidence as claimed. As a result, I have not considered documentary evidence from the landlord as it was not uploaded as required by the Rules of Procedure.

Preliminary and Procedural Matter

The parties provided their email addresses at the outset of the hearing which were confirmed by the undersigned arbitrator. The parties confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The parties agreed that a month to month tenancy began on December 1, 2014.

The tenant confirmed that he was served with the 1 Month Notice on November 4, 2017 and disputed the 1 Month Notice on November 9, 2017. The landlord listed two causes on the 1 Month Notice, namely:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety of another occupant or the landlord.

On the details of the cause, the landlord writes in part that the tenant assaulted another resident on October 13, 2017 and was given a warning letter, and that another assault occurred on November 3, 2017. Two police file numbers are also included on the 1 Month Notice.

The agent testified that since May 6, 2017 the police or staff has had to intervene between the tenant and the resident of suite 616 ("other resident") on seven occasions. The other resident is, according to the tenant, his girlfriend. The agent stated three of the seven occasions involved the police attending the rental property and having to separate the tenant from the other resident.

The agent testified that on October 13, 2017 the tenant pushed the face of the other resident and that the tenant was warned regarding his behaviour and that an in-person meeting was held with the tenant where the tenant was warned regarding the behaviour. The agent stated that on November 3, 2017, the tenant had another confrontation with the other resident, and that the tenant grabbed a knife and as a result, the landlord felt that it was necessary to give the other resident an alert bracelet to press in case of any future concerns. The landlord submitted two police file numbers for the October 13 and November 3 incidents.

The tenant described that he has "lover's quarrels" with the other resident. The tenant did admit during the hearing that he placed his hand on the face of the other resident on October 13, 2017. The tenant originally denied having a knife in his hand or touching a knife and later changed his testimony by stating that he had a knife in his hand but he was only trying to break the knife in the sink as there was a ceramic blade.

The tenant advocate called the other resident as a witness. The witness testified under oath that on October 13, 2017 the tenant did not touch her and that on November 3, 2017 the tenant put her in a headlock. The tenant had not testified that he had placed the witness/other resident in a headlock on November 3, 2017. The landlord agent did not have any questions for the witness.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant disputed the 1 Month Notice within the 10 day timeline provided for under the *Act* the onus of proof then reverts to the landlord to prove that the 1 Month Notice is valid. The landlord is only required to prove one of the listed causes for the 1 Month Notice to be valid.

In the matter before me, I find the tenant's testimony to be contradictory with the witness/other resident's testimony. Namely, the tenant admits he placed his hand on her face and the witness then denied that during her testimony. In addition, I note that the tenant first denied touching a knife on November 3, 2017 and then later admitted that he did have the knife in his hand and was trying to break it in the sink. Based on the undisputed testimony from the witness that the tenant placed her in a headlock on November 3, 2017 I find the landlord has met the burden of proof by proving on the balance of probabilities that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety of another occupant or the landlord.

I find there is sufficient evidence to support that the female witness/other resident was assaulted when the male tenant placed his hand on her face and then even after being warned on October 13, 2017 regarding his behaviour, placed the other resident in a headlock on November 3, 2017. I find there is no place for violent or assaultive behaviour in a tenancy arrangement.

Given the above, I dismiss the tenant's application to cancel the 1 Month Notice as I find the 1 Month Notice is valid. The effective vacancy date listed on the 1 Month Notice was December 4, 2017 which automatically corrects under section 53 of the *Act* to December 31, 2017. I have also considered that the tenant has paid January 2018 money for use and occupancy. As a result, and pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **January 31, 2018 at 1:00 p.m.**

I do not find it necessary to consider the second cause listed on the 1 Month Notice as a result of the above.

Conclusion

The tenant's application is dismissed.

I uphold the 1 Month Notice issued by the landlord. The tenancy ended on December 31, 2017 which is the corrected effective date on the 1 Month Notice.

As per above, the landlord has been granted an order of possession January 31, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 25, 2018

Residential Tenancy Branch