



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KANDOLA VENTURES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNC LRE OLC**

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; an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62; and an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenant confirmed receipt of the landlord's 1 Month Notice to End Tenancy by posting it on his door on December 28, 2017. The tenant was sufficiently served with the landlord's Notice to End Tenancy on December 31, 2017. The landlord confirmed receipt of the tenant's Application for Dispute Resolution on February 26, 2018 to cancel the 1 Month Notice.

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?

If the tenancy will continue, is the tenant entitled to an order that the landlord comply with the Act and/or an order that the landlord's access to the rental unit be suspended or set with conditions?

Background and Evidence

This tenancy began in June 2017, according to the testimony of the parties at the hearing. A copy of page 1 of the residential tenancy agreement was submitted as evidence for this hearing however all other pages, with relevant information were not submitted. The parties agree that the tenant continues to reside in the rental unit and has a monthly rental payment amount of \$850.00. The parties agreed that the landlord continues to hold the \$425.00 security deposit paid at the outset of this tenancy.

The landlord issued a 1 Month Notice to End Tenancy on December 28, 2017. In that Notice, requiring the tenant to end this tenancy by January 31, 2018 the landlord cited the following reasons for the issuance of the Notice:

Tenant has allowed an unreasonable number of occupants in the unit.

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 has engaged in illegal activity that has, or is likely to:

- damage the landlord's property...

The landlord alleges that the tenant takes drugs on the residential premises. He relied on information that he had heard from tenants and his manager as well as on the complaint letters submitted to him. The landlord supplied copies of a joint letter typewritten by the tenants dated February 17, 2018 in the building who are all equally (but anonymously) disturbed by the tenant's behaviour in the residential premises. Sixteen handwritten letters were submitted as evidence from different occupants of the residential premises dating from December 2017 to February 2018,

- door to entry to premises jarred/jammed open;
- people sleeping outside the tenant's door;
- smell of marijuana from the rental unit;
- comings and goings from the rental unit after midnight to early morning;
- slamming doors; and
- fear of repercussions for complaining about the tenant.

The landlord's property manager testified that she spoke with the tenant personally, at his door on a number of occasions regarding the complaints. She also testified that

when she told him about the complaints of his guests coming and going in late hours and yelling, slamming doors, the tenant stated, "Aren't I allowed to have guests"?

The landlord and property manager testified that the tenant used to visit the building when his mother lived on the premises. This is also mentioned in at least one of the letters of complaint. The property manager testified that she agreed to give the tenant a chance to reside in the rental unit but that, from the start, she warned him about the rules of the residence and the expectations to be considerate of his neighbours. She also testified that she talked to him in December 2017 several times in order to try to address the matter before the issuance of a Notice to End Tenancy.

The tenant expressed great bewilderment about the letters of complaint. He testified, contrary to the testimony of the property manager that he had never known of any complaints against him. He testified that he had received no warnings and that he was certain he was well liked in the building.

Analysis

When a tenant applies to cancel a notice to end tenancy, the burden shifts to the landlord to justify the notice and the end of tenancy based on the grounds supplied. It is the landlord's obligation to show, on a balance of probabilities, why the tenancy should end. In the case of a 1 Month Notice to End Tenancy for Cause, the landlord must *prove* the elements relating to the grounds given on the notice. In this case the landlord has relied on a variety of grounds to end the tenancy.

With respect to the ground that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, I find that the landlord has met their burden. The landlord's property manager provided detailed testimony regarding her efforts to warn the tenant about his behaviour and to work with him to address it. She provided compelling evidence regarding the disruption to other tenants (mainly seniors) in the rental premises. She submitted letters to indicate the ongoing complaints to her regarding the tenant including a joint letter typewritten by several of the tenants in the building as well as 16 individual complaint letters. Many of the letters referred to similar complaints including noise very late at night and disruptive guest behaviour in the common areas at that time.

I accept the evidence of the landlord's manager that the tenants in the building have been unreasonably disturbed and that the tenant and his guests are responsible. I accept the evidence of the landlord's manager regarding the growing discomfort and

fear of the other tenants. I will not address the other grounds provided by the landlord to end tenancy and note that the landlord did not provide sufficient evidence with respect to allegations of illegal activity or unreasonable number of occupants in the rental unit.

However, as the landlord has met their burden of proof, on a balance of probabilities, that the tenant and his guests have significantly disturbed the other occupants and the landlord, I find that the landlord has justified the 1 Month Notice to End Tenancy. The Notice was effective January 31, 2018. As the tenant has not vacated the rental unit, the landlord is entitled to an Order of Possession.

I dismiss the tenant's application to cancel the Notice to End Tenancy and grant the landlord an Order of Possession. I find that the tenant's applications with respect to the landlord's entry into the unit and the landlord's compliance with the Act are moot and need not be addressed.

Conclusion

I dismiss the tenant's application in its entirety.

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: March 16, 2018

Residential Tenancy Branch