



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC FF / CNC MNDC

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for cause pursuant to section 55;
- authorization to recover the filing fee for this application pursuant to section 72.

Tenant:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the parties respective applications and evidence submissions.

Preliminary Issue – Scope of Application

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the One Month Notice, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants’ application

with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

Issues

Should the One Month Notice be cancelled? If no, is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover its filing fee?

Background and Evidence

While I have turned my mind to all of the documentary evidence and the testimony of the parties, only the relevant details of their respective submissions and arguments are reproduced here.

The tenancy began on March 15, 2014 with a current monthly rent of \$537.00 payable on the 1st day of each month. The current landlord purchased the rental property on October 16, 2017. The tenant paid a security deposit of \$262.50 at the start of the tenancy which the landlord continues to hold. The rental unit is a bachelor suite in a 69 unit apartment building.

The tenant was served with the One Month Notice on January 31, 2018. The tenant filed an application to dispute the One Month Notice within the applicable time period under the Act.

The landlord issued the 1 Month Notice on the grounds that the tenant significantly interfered with or unreasonable disturbed another occupant or the landlord; seriously jeopardized the health or safety of another occupant or the landlord; and put the landlord's property at significant risk.

The landlord testified that she started having problems with the tenant shortly after taking over the rental property in October 2017. The landlord testified the tenant has an explosive personality and anger issues and regularly uses profanities while communicating with the landlord. The landlord provided various examples of incidents involving the tenant a sample of which is outlined below:

January 17, 2018 – The tenant was issued a warning letter as the landlord had received complaints from neighboring tenants with respect to oil leaking from the tenant's car. The landlord submits that other tenants with pets were concerned with their pets getting oil on their paws and then licking the oil. Following the issuance of the tenant came to

the landlord's office and was extremely angry and very aggressive. The tenant would not allow the landlord to explain the reason for issuing the warning letter and was argumentative, combative and using foul language. The tenant acknowledged the leak was from his vehicle but insisted it was coming from the radiator and was not oil.

January 26, 2018 – The tenant approached another couple who also resides in the building. The couple was just returning home from grocery shopping when the tenant approached them and accused the male tenant of hacking his computer. The tenant was verbally aggressive and confrontational. The tenant was cursing and mumbling something under his breath which the couple could not hear. The couple walked away and ignored the tenant. The tenant stared the couple down, shouting "I know it's you" as they walked to their unit. The couple felt the tenant was trying to intimidate them and filed a report with the police as they felt threatened. A statement from the couple was submitted as evidence on file.

February 5, 2018 – Following the issuance of the One Month Notice, the tenant came to the landlord's office demanding a copy of the complaint from the previous incident. The tenant was demanding a copy of the complaint and the unit number of the tenants that complained. The tenant was very loud and aggressive in speaking with not only the landlord but also the co-owner who was present at the time. The landlord submits there was no onus on her at this point to provide the tenant with a copy of the complaint letter. The landlord submitted a witness statement from the co-owner and another tenant who witnessed the incident from the parking lot.

As a further example of the tenant's aggressive and intimidating behavior, the landlord referred to the tenant's own evidence submission in which he refers to removing another tenant's fingers and having no choice but to sleep with a cleaver by his bed. The landlord further submits the tenant has been issued various breach letters including being warned about his aggressive and threatening behavior.

The tenant testified that he did not approach the other couple involved in the January 26, 2018 incident. The tenant testified that he was just working on his car in the parking lot when the couple walked by. He did ask them if they had been hacking his computer. The male tenant responded that he doesn't even own a computer. The tenant testified that he then continued to ask the male tenant why he was stalking him with no insurance on his car. The tenant submits that he received the eviction notice for simply asking another tenant why he is performing illegal acts against him.

With respect to the behavioral issues presented by the landlord, the tenant testified that he doesn't always create the situation. The tenant submits he hadn't been given the

reasons for being issued the One Month Notice which is why he went to talk about it with the landlord. The tenant testified that he was only trying to address the landlord and she should have heard his concern. The other owner “overtalked” him, so he “overtalked” the other owner. The tenant submits his behavior is merely a reflection of the landlords’ behavior. The tenant submits that foul language is part of his demeanor and he tries to not swear when around the landlord.

As an example of the landlord creating a situation versus him, the tenant provided an example of the landlord stating something in a high pitched tone such as “just a minute”. The tenant testified this is an example of the landlord bullying him so he is going to bully back.

With respect to the oil leak, the tenant testified that he believes someone loosened his filter and it was likely the person that put the cardboard under his vehicle.

The tenant acknowledged threatening to take another tenant’s fingers off because he believed the other tenant was stealing. The tenant testified that “the law does not work so taking someone’s fingers off is a good solution”.

The tenant further testified that “he hasn’t beaten the shit out of anybody yet, not unless they bully him first”.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice.

The facts of this case were essentially not in dispute. The tenant did not dispute that he behaves aggressively and uses profanities when speaking to the landlord. Rather, the tenant alleges it is the landlord’s behaviour towards him that causes him to react in an aggressive manner. The tenant did not provide any evidence of this allegation and the example the tenant provided of the landlord simply stating “just a minute”, is not justification for the tenant to speak to the landlord in a disrespectful manner. The tenant acknowledged questioning another couple about hacking his computer and stalking him without providing any basis for the accusations. The tenant also

acknowledged threatening to take another tenant's finger off and in the hearing also commented that "he hasn't beaten the shit out of anybody yet".

I find the tenant's aggressive and intimidating behaviour has significantly interfered with and unreasonable disturbed other occupants and the landlord. Also by threatening to cut off someone's fingers or beat the shit out of someone, the tenant has also seriously jeopardized the safety of another occupant and/or the landlord.

I find that the landlord has provided sufficient evidence to justify that it had cause to issue the 1 Month Notice. The tenant's application to cancel the 1 Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the security deposit.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant 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: April 26, 2018

Residential Tenancy Branch