



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant: CNC
Landlord: OPC FF

Introduction

This hearing dealt with cross-applications to cancel a One Month Notice to End Tenancy For Cause (the Notice or Notice to End), dated January 30, 2018 with an effective date of February 28, 2018 and the landlord seeking an Order of Possession and recovery of the filing fee.

Both parties attended the hearing. They respectively acknowledged exchange of all document evidence further submitted to me and that they had satisfactorily reviewed it and could respond to it. The parties were given opportunity to mutually resolve or settle their dispute to no avail. Both parties were given opportunity to present *relevant* evidence and testimony in respect to the applications and to fully participate in the conference call hearing and as well to present witnesses. Prior to concluding the hearing both parties acknowledged they had presented all of the *relevant* evidence that they wished to present.

Issue(s) to be Decided

Is the notice to end tenancy valid?
Is there *sufficient* cause so as to end the tenancy?
Should the Notice to End in this matter be cancelled or upheld?
Is the landlord entitled to an Order of Possession?

In this type of matter the burden of proof rests with the landlord

Background and Evidence

This tenancy started May 01, 2016 and was latter augmented June 01, 2017 adding 2 more occupants to the rental unit for a total of 5 tenants.

Both parties submitted a copy of the Notice to End. The Notice was issued for the following reasons pursuant to Section 47(1)(d)(e)(f)(g) of the Act;

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*

and

Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to:

- *damage the landlord's property*
- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.*
- *jeopardize a lawful right or interest of another occupant or the landlord*

and Tenant has caused extraordinary damage to the unit.

and Tenant has not done required repairs of damage to the unit (yard – as written)

The tenant disputes the validity of the Notice to End. The relevant disputed evidence is as follows. The landlord claims that;

a). the tenant engaged in having “2 vehicles attend the rental unit dropping off drugs”. The landlord stated the tenant stated to them this would not occur. The landlord did not provide further evidence in support of this claim.

The tenant denied that “drugs” are being dropped off at the unit.

b). they told the tenant to clean up an abundance of their belongings from the yard and from their unit and to cast off some of their garbage from inside the unit. The landlord testified that they failed to do either within the time stipulated by the landlord.

The tenant claims they eventually attended to rectifying the landlord's demands but admittedly not within the strict time confines requested by the landlord. The tenant testified that upon the landlord's review they were in a transition process toward meeting the landlord's request and successfully mostly accommodated the landlord by placing their belongings in 2 structures erected on the property with the landlord's permission.

c). the tenant obstructed another occupant (tenant) of the residential unit from using the laundry facilities of the property. The landlord claims they saw, from the other occupant's room, that the tenant had caused the laundry room door from properly being opened.

The tenant testified that they have not prevented the other occupant from doing their laundry. However, due to an ongoing disputatious relationship with the other occupant, they temporarily prevent the laundry room door from being opened on the days they do their own laundry, and then afterwards unblock it.

d). the tenant has refused to allow them to do an inspection of the unit. The landlord provided a note from the tenant dated March 09, 2018 in which the tenant states the landlord does not have their permission to do an inspection before April 02, 2018.

The tenant testified they felt it was in bad faith for the landlord to request an inspection before the hearing date of this matter and communicated to the landlord they were fine with an inspection *after* the deadline for evidence submissions of April 02, 2018.

e). the tenant caused a window to crack and has not repaired it.

The tenant testified that a crack in the bedroom window was there prior to the start of their tenancy. In rebuttal the landlord testified they could not confirm the tenant's position as they did not do a move in inspection prior to the tenant occupying the unit.

The landlord provided that they called the local police service on several occasions because the tenant was uncooperative in respect to the landlord's demands.

The landlord provided a witness, AC. The witness testified under affirmation that the tenants need to clean up and not be so aggressive.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

In this type of application, the burden of proof rests with the landlord to provide evidence that the Notice was validly issued for the stated reasons and altogether establishing *sufficient* cause to end the tenancy.

I accept the landlord's confidence in their information upon which they are relying to

meet their burden. However, upon review of their evidence I find it is generally vague and indicative of an ongoing and escalating disputatious relationship.

I find that the landlord did not provided proof that the tenants were causing the delivery of “drugs” to the rental unit.

I find the landlord has not provided sufficient evidence that the tenant has *damaged* or placed the landlord's property at *significant* risk.

I find that the tenant clearly obstructed another occupant from accessing the laundry room, but as a result it was not proven by the landlord that the other occupant was prevented or has ever been prevented from *doing their laundry*. As a result, I find the landlord has not provided sufficient evidence that the tenant has *significantly* interfered with or *unreasonably* disturbed another occupant of the property.

I find that the tenant may have temporarily prevented the landlord from doing an inspection, however given the disputatious circumstances between the parties, I accept the tenant's evidence the landlord's timing for an inspection as questionable. It must further be known that this event was 5 weeks after the tenant had already received the 1 Month Notice of this matter and therefore could not have formed part of the landlord's reason for issuing the Notice to End. I find the incident irrelevant to this hearing; but regardless of which, I find the landlord has not provided sufficient evidence in this respect the tenant *significantly* interfered with the landlord's right.

I find the landlord did not provided proof the tenant caused a crack in a window of the unit. I further find that if the tenant had caused the crack it would be sufficiently *extraordinary* to end a tenancy of 5 individuals on this basis.

I find that the testimony of the landlord's witness did not provided information ultimately helpful to this matter.

I find that it is not enough for the landlord to allege or present examples of interference or obstruction. The landlord must prove that their reasons are rooted in evidence of a *significant* nature, *unreasonableness*, or of an *extraordinary* nature as is prescribed by Section 47 of the Act. I find that the landlord has not provided *sufficient* evidence the Notice to End was rooted in *sufficient* reason as stated in the Notice and as prescribed by the Act. While I may accept the parties' respective frustration with the other and the ongoing disputatious nature of the tenancy I find that the landlord's evidence fails to establish the landlord's burden of proof so as to end the tenancy. I find that in this matter the landlord did not have *sufficient* cause to issue a valid Notice to End.

Therefore, **I Order** the Notice to End dated January 30, 2018 is cancelled, or set aside with the resulting effect that the landlord's application for an Order of Possession is **dismissed**.

It must be noted the tenant came perilously close to losing their tenancy and that it is available to the landlord to serve the tenant with another Notice to End, provided they have *sufficient* cause to do so.

Conclusion

The tenant's application is granted. The landlord's application is dismissed.

The landlord's Notice to End dated January 30, 2018 is set aside and is of no effect. The tenancy continues.

This Decision is final and binding.

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 17, 2018

Residential Tenancy Branch