



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTWYND REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OLC

Introduction:

Both parties attended the hearing and gave sworn testimony. The landlord said they served the tenant with a One Month Notice to End the Tenancy for cause dated March 30, 2018 to be effective April 30, 2018 personally on March 30, 2018. The tenant said they served the landlord with their Application for Dispute dated April 6, 2018 by registered mail and the landlord agreed they got it. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to section 47 of *The Residential Tenancy Act* (the Act) to

- a) cancel the Notice to End Tenancy;
- b) to order the landlord to comply with the Act; and
- c) To recover filing fees for this application

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy commenced June 2013, rent is \$1435 and a security deposit of \$650 was paid. The landlord served the Notice to End Tenancy for cause for the following listed causes:

- a) The tenant or a person permitted on the property by them has
 - (i) Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - (ii) Put the landlord's property at significant risk. And;
- b) There has been a material breach of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord provided evidence of several breaches of the strata bylaws and of the tenancy agreement. The tenant or his friends have been smoking in a non smoking

complex. Breach letters and photos of butts on the balcony were provided as evidence. In an email, the tenant agreed his friends were over and did it on March 15, 2018. The landlord said it continued in April 2018 also. The landlord said this puts the property at significant risk. One of the tenant's friends vomited on the carpet of the lobby which significantly disturbed other residents. The tenant had a pet in a pet free unit. The tenant's girlfriend has been parking longer than allowed in the visitor parking. There were breach notices issued February 19, 2018 and March 20, 2018 indicating she was parking there for several days at a time.

The tenant said his room mate vomited in the lobby, he does not smoke but was issued a breach letter for using a vaporizer outside the front area. He said he was not warned by email or delivered a notice of inspection as in the past under the door but it was put in his mailbox. He suspects the landlord illegally enters his suite and objects to them arranging for carpet cleaning. In a letter, he apologizes for the messy appearance of his unit and the recycling on the floor and promises to clean things up. He said they got rid of the cat a few weeks after notification; the strata allows pets and he did not realize his lease did not allow them.

I discussed the weight of the evidence with the parties and they agreed to a move out date of June 30, 2018.

Analysis:

The Notice to End a Residential Tenancy is based on cause. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes it and the tenant disputed it in time.

The onus is then on the landlord to prove they have good cause pursuant to section 47 to end the tenancy. Section 47 sets out a number of causes, any one of which, if proven, is cause to end the tenancy. I find the landlord satisfied the onus. I find the weight of the evidence is that the tenant

- a) has visitors that smoke in contravention of the strata bylaws and he smokes a vaporizer which is defined as smoking in Bylaws 46.1 and 46.2 of the strata.
- b) has a girlfriend who parks for longer than allowed in the bylaws.
- c) his friend vomited in the lobby which caused disturbance to the other residents and required professional cleanup at a cost of \$200.

I find the landlord's credibility well supported by the number of breach letters issued by the strata and photographs of butts on the balcony and documented times of the girlfriend parking longer than allowed. I find the Act specifically states that the tenant is responsible for the behaviour of those permitted on the property by him. I find the weight

of the evidence supports the Notice as it illustrates how the tenant's friends or his own behaviour is significantly disturbing and interfering with the reasonable enjoyment of other residents and their smoking is putting the landlord's property at significant risk. I find he signed a Form K which requires him to obey the strata bylaws but he and/or his friends have not.

The tenant states he got rid of the cat and has cleaned up his unit. However, I find the above violations are sufficient cause to end his tenancy. .

I dismiss the application of the tenant in its entirety. Section 55(1) (a) provides that the arbitrator must grant an order of possession of the rental unit at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. I grant the landlord an Order for Possession effective June 30, 2018 as negotiated by the parties.

Conclusion:

I dismiss the tenant's application and find he is not entitled to recover the filing fee due to lack of success. I grant the landlord an Order for Possession effective June 30, 2018. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement

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: May 16, 2018

Residential Tenancy Branch