



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MOUNT BENSON SENIOR CITIZEN HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the *Act*) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

An agent for the Landlord (the “Landlord”) called into the teleconference hearing, as did the Tenant.

The Tenant served the Notice of Dispute Resolution (the “Notice of Hearing”) to the Landlord in person. Although the Tenant was unsure of the day it was served, the Landlord confirmed receipt of the Notice of Hearing. The Tenant did not submit any documentary evidence other than the One Month Notice, and therefore did not serve evidence to the Landlord. The Tenant confirmed receipt of the evidence submitted by the Landlord.

Both parties were affirmed to be truthful in their testimony and were provided with the opportunity to give testimony, present evidence and ask questions of the other party. The hearing lasted approximately 58 minutes. After approximately 49 minutes, the Tenant exited the teleconference hearing. The Tenant was speaking in a loud and aggressive tone at the time he disconnected and it appeared that he hung up as his shouting and apparent anger was escalating at the time he exited the hearing. The phone line remained open for the remainder of the hearing and the Tenant did not call back in, so the hearing continued in his absence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy be set aside?

Background and Evidence

Both parties were in agreement as to the details of the tenancy. The tenancy began on October 1, 2017, although the Tenant previously resided in a different rental unit in the same building. When the Tenant moved into the current rental unit on October 1, 2017, a new tenancy agreement was signed. Monthly rent in the amount of \$335.00 is due on the first day of each month. A security deposit in the amount of \$167.50 was paid to the Landlord at the outset of the original tenancy when the tenant resided in a different rental unit.

The Landlord testified that there have been many incidents regarding the Tenant's behaviour towards the staff and other residents in the building that led to the issuance of the One Month Notice. In June 2017, the Tenant was provided a warning letter and provided options for remaining in the rental property, despite some concerns that the Landlord had regarding the behaviour of the Tenant on the property. It was at this time that arrangements were made to move the Tenant to a rental unit that was closer to where the management office was in the building.

The Landlord submitted in evidence a copy of letters of warning sent to the Tenant. This evidence includes letters dated June 19, 2017, February 6, 2018 and April 19, 2018, as well as some incident reports from the staff at the building and some notes from other tenants in the building noting concerns about the Tenant's behaviour. The Landlord testified that the Tenant has been verbally aggressive and abusive to others.

The Landlord testified that on February 1, 2018, there was an altercation between the Tenant and another resident in the laundry room. Although the Landlord was not present when the altercation happened, she says that the other resident came to the Landlord visibly upset and worried for her safety. The Landlord called the police.

The Landlord also testified as to an altercation that occurred between the Tenant and his neighbour on April 5, 2018. The Landlord states that they were witness to arguing in the hallway that included the Tenant raising his voice, swearing and slamming his door shut enough to shake the lights in the Landlord's office. The Landlord submitted that it was after this incident on April 5, 2018 that a final warning letter was written to the

Tenant and they tried to reach a resolution with the Tenant by holding a meeting. The Landlord testified that the Tenant left the meeting shortly after it started, thus they were not able to come to a resolution regarding their concerns.

On April 23, 2018, the Landlord issued a One Month Notice to the Tenant by posting the notice on his door. The Tenant confirmed receipt of the One Month Notice on the same day it was posted, April 23, 2018. The effective end of tenancy date on the One Month Notice was stated as May 31, 2018.

The One Month Notice lists the following as causes to end the tenancy:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonable disturbed another occupant or the landlord
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The Landlord testified and provided evidence that the material term referenced in the One Month Notice is a statement in the tenancy agreement regarding the expected behaviour of tenants in the building. This statement says that tenants must not display verbal or physical abuse towards other tenants. The statement on the tenancy agreement states that the landlord may end the tenancy should this term not be followed.

The Landlord testified that since the issuance of the One Month Notice and since submitting her evidence for this dispute, she has received more complaints from other residents in the building regarding the behaviour of the Tenant.

The Tenant testified that the incident in the laundry room that occurred on February 1, 2018 started when he wasn't sure of when his laundry day was and another resident became upset when his laundry was in the machine when it wasn't his day to do laundry. The Tenant testified that the other resident would not let him put his laundry back in the machine to finish and therefore he got upset and raised his voice. He admitted that the argument escalated as he became upset. He testified that afterwards he felt badly and apologized for his behaviour.

The Tenant testified that on April 5, 2018, his neighbour came to his unit early in the morning demanding to borrow money. The Tenant submitted that an argument broke out between them and that he got upset at the neighbour knocking on his door and

asking for money. The Tenant testified that contrary to the Landlord's testimony, he didn't slam his door enough to shake the lights in the Landlord's office, but instead that he closed the door and went back into his suite to avoid further arguments or confrontation. The Tenant testified that neither the incident on February 1, 2018 nor April 5, 2018 were started by him. He testified that in both cases it was another resident who started the argument, causing him to become upset.

The Tenant testified that he is aware that he is short tempered and that he has had a few altercations with people in the building. He submitted that he has a problem with anger, but would never hurt anyone and will always apologize for his behaviour and is taking steps to work on his behaviour.

The option of a settlement agreement was brought up during the hearing. The Tenant testified that he does not want to move as he does not have anywhere else to go, but that more time may allow him to find a rental unit somewhere else. The Landlord suggested that he could continue residing in the rental unit until June 30, 2018 as a possible settlement discussion, but that there would need to be conditions set around his behaviour in the building if he continued to reside there until the end of June 2018.

The Tenant got noticeably upset when the Landlord suggested that there may need to be conditions set around his behaviour and he raised his voice and spoke over the Landlord and myself, despite several warnings to stop talking as both parties would be given a chance to speak. The volume of his voice and the angry tone in which he was speaking continued to escalate until he was yelling at the Landlord and swearing. This is when the Tenant exited the hearing and did not call back in.

The Tenant was provided a few minutes to call back into the hearing, but when he did not do so, the hearing continued in his absence. Despite a possible settlement discussion not continuing due to the Tenant leaving the hearing, the Landlord confirmed that they would be willing to have the Tenant stay until June 30, 2018, as long as his behaviour was appropriate and reasonable. The Landlord testified that they want to make sure there is enough time for the Tenant to find a new place to live, but that his behaviour is very disruptive and upsetting for the other residents and therefore they cannot have him reside in the rental unit beyond June 30, 2018.

Analysis

Based on the testimony and evidence of both parties, I find that the Tenant has acted in ways that have unreasonably disturbed the other occupants in the building. I also find

that the Tenant signed a tenancy agreement on October 1, 2017, agreeing to appropriate behaviour around the property of the rental unit and was provided warning letters advising him of behavioural concerns, which the Landlord testified have not improved. As the Landlord testified that the behaviour was not corrected after he was provided with the opportunity to do so, I find that the reasons for ending the tenancy listed on the One Month Notice are valid and in compliance with Section 47 of the *Act*.

Based on the Tenant's escalating behaviour during the hearing that led to him disconnecting from the teleconference, I find it likely that he has had similar confrontations with other residents in the building. The way he was speaking to the Landlord is not indicative of a respectful relationship that will be able to continue long term.

As per the Rules of Procedure, the Landlord has the onus to prove a notice to end tenancy. Based on the evidence and the testimony of both parties during the hearing, I find that the reasons for the issuance of the One Month Notice were valid.

As the Tenant confirmed receipt of the One Month Notice on April 23, 2018 and applied to dispute the notice on May 1, 2018, I find that he applied to dispute the notice within the 10 day timeframe provided by Section 47(4) of the *Act*. However, as I have determined that the reasons for the notice are sufficient and therefore the notice is valid, I uphold the One Month Notice dated April 23, 2018.

In reviewing the One Month Notice that was submitted in evidence, I determine that it complies with Section 52 of the *Act*. Pursuant to Section 55(1) of the *Act*, when a notice to end tenancy is in compliance with Section 52 of the *Act*, and when the landlord's notice is upheld, an Order of Possession must be granted.

I note the Landlord's willingness to continue the tenancy until June 30, 2018. However, provided that the Landlord wanted this to be conditional on the Tenant's ability to behave in an appropriate manner and given the Tenant's conduct at the hearing, I issue a two (2) day Order of Possession to the Landlord. The Landlord may choose to serve this Order of Possession as they see fit, and it will be effective two days after service on the Tenant.

The Tenant is cautioned that the Landlord choosing to continue the tenancy until June 30, 2018 is dependent on the Tenant's ability to follow the Landlord's rules for reasonable and appropriate behaviour in the building, and towards other residents and staff.

As the Landlord may choose when to serve the Order of Possession to the Tenant, if a decision is made to serve this order before the end of June 2018, the Landlord is reminded that they must return any rent paid by the Tenant in June 2018 on a daily pro-rated basis based on the date that the tenancy ends.

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: May 29, 2018

Residential Tenancy Branch