



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OLC RP LRE

Introduction

The tenant submitted an Application for Dispute Resolution (“application”) under the *Residential Tenancy Act* (“Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated February 15, 2018 (“1 Month Notice”), for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for regular repairs to the unit, site or property, and for an order to suspend or set limits on the landlord’s right to enter the rental unit or property.

The tenant, a witness for the tenant, the landlord, a witness for the landlord, an articling student for the landlord (“articling student”), and co-counsel for the landlord attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me.

Preliminary and Procedural Matters

As both parties confirmed that they did not confirm with the other party that they could open/access the video evidence served, I have excluded the video evidence submitted by both parties as it was not served in accordance with Rule 3.10.5 of the Rules of Procedure (“rules”).

The parties provided their email addresses at the outset of the hearing which were confirmed by the undersigned arbitrator. The parties confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the appropriate party.

In addition to the above, I have included an “AKA” (“Also Known As”) for the rental unit address on the decision and order of possession to address the tenant indicating a different rental unit description than what is listed on the tenancy agreement and 1 Month Notice.

In addition to the above, while I have only considered the notice to end tenancy which find to the substantive issue before me, the tenant was advised that if his application was dismissed, I would not be providing the tenant leave to reapply for the remainder of his application. This was done in accordance with Rule 2.3 of the Rules of Procedure.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

The parties agreed that a month to month tenancy began on April 1, 2017.

The tenant confirmed that he was served with the 1 Month Notice but could not recall the specific date he was served. The 1 Month Notice indicates that it was served personally on February 15, 2018 which the landlord confirmed. The tenant disputed the 1 Month Notice within 10 days of receiving the notice, by filing to dispute the 1 Month Notice on February 24, 2018. The landlord listed three causes on the 1 Month Notice, namely:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety of another occupant or the landlord.
3. The tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

On the details of the cause, the landlord writes a police file number and refers to the incidents which occurred on February 10, 2018.

Submitted in evidence is an April 24, 2018 document from the Royal Canadian Mounted Police ("RCMP") summarizing the two police file numbers ("synopsis") which I have referred on the cover page of this decision for ease of references ("police files"). According to the synopsis, the police were called at 7:18 a.m. by the tenants living above the tenant ("other tenants") due to the tenant being intoxicated and breaking into the other tenants unit. The RCMP write that the tenant was "yelling, screaming, banging and kicking the door" and that the tenant was "arrested for break and enter." The tenant

denies that he was arrested by police and that he was ever charged by police. The RCMP also write that the tenant “was yelling, belligerent, and asking to fight other people” versus the other tenants were calm and provided details to the RCMP. In addition, the RCMP also write that the tenant “had his chest puffed out, at times his hands were in fists, and he was invading the personal space of the other people, forcing upstairs tenant to back up in his home to prevent physical assault.”

The tenant claims that he called the police also to report his concerns regarding the other tenants however confirmed that he did not submit any documentary evidence from the RCMP to support his testimony.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant disputed the 1 Month Notice within the 10 day timeline provided for under the *Act* the onus of proof then reverts to the landlord to prove that the 1 Month Notice is valid. The landlord is only required to prove one of the listed causes for the 1 Month Notice to be valid.

In the matter before me, I find the tenant’s testimony to be contradictory with the RCMP synopsis and the account provided by the articling student on behalf of the landlord. Namely, the tenant denies being arrested and getting in the personal space of the upstairs tenants. I afford the RCMP synopsis significant weight as it sets out the details from two police reports in one document obtained by the landlords through the RCMP. Therefore, I accept the landlord’s version of events over that of the tenant’s version of events. I find the landlord has met the burden of proof by proving on the balance of probabilities 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 there is no room for what I find to be aggressive and inappropriate behaviour between one tenant towards another tenant and/or the landlord and that the tenant unreasonably disturbed the upstairs tenant in the matter before me.

Given the above, I dismiss the tenant’s application to cancel the 1 Month Notice as I find the 1 Month Notice is valid. The effective vacancy date listed on the 1 Month Notice was March 31, 2018. I find the tenancy ended on that date. I have also considered that the landlord confirmed that the tenant has paid money for use and occupancy for May 2018. As a result, and pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **May 31, 2018 at 1:00 p.m.**

I do not find it necessary to consider the other two causes listed on the 1 Month Notice as a result of the above.

Conclusion

The tenant's application is dismissed. I uphold the 1 Month Notice issued by the landlord. The tenancy ended on March 31, 2018.

As per above, the landlord has been granted an order of possession effective May 31, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 8, 2018

Residential Tenancy Branch