



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on May 31, 2018. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the "Notice")

The Landlord and the Tenant both attended the hearing. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties acknowledged receipt of each other's documentary evidence.

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

- Is the Tenant entitled to have the Landlord's Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenant acknowledged receiving the Notice on March 9, 2018. The Notice indicates the following reasons for ending the tenancy on the second page:

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.

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.

Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

Tenant has not done required repairs of damage to the unit/site.

The Landlord issued the Notice for several reasons. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine whether there are sufficient grounds to end the tenancy. In other words, my decision will focus on the first ground identified by the Landlord, as this ground is what my decision hinges upon.

The Landlord testified that he manages a mobile home park and the Tenant rents one of the units. The Landlord stated that this is not a "pad rental" but is a residential tenancy. The Landlord stated that there have been many issues with the Tenant over the years, and the Tenant has always been hostile, aggressive and difficult to deal with. However, the Landlord stated that he issued the Notice because of the most recent incident on December 29, 2017.

The Landlord stated that he hired a caretaker to clear snow from the roads throughout the winter. The Landlord stated that on December 29, 2017, the caretaker was plowing the roads, and was confronted by the Tenant. The Landlord stated that the Tenant was

upset because the caretaker plowed snow from the road into his driveway (which he had already cleared for his own use). The Landlord stated that the Tenant came out and threatened the caretaker. The Landlord stated that the caretaker is now afraid to come back.

The Landlord provided a signed letter from the caretaker into evidence, which states that on December 29, 2017, at around 3:42 pm, the Tenant came outside “screaming” at her in a hostile and belligerent manner. The caretaker stated that the Tenant threatened her with monetary repercussions if she put even an ounce of snow on his driveway. The caretaker stated that the Tenant was uncontrollably yelling, then after the incident, he phoned her and called her names. The caretaker stated that the Tenant called a second time to yell at her, and she had to hang up because she found him to be threatening and very abusive.

The Landlord stated that this is part of a larger pattern of behaviour from the Tenant and the tenancy needs to end for the sake of everyone.

The Tenant stated that all of what the Landlord says is “bullshit”. The Tenant stated that he used to do caretaking of the property and knows the Landlord’s mother, and used to have a relationship with her. The Tenant stated that he knows the proper way to drive a snowplough and the caretaker was not doing it properly. The Tenant stated that his brother had shovelled his driveway by hand the caretaker pushed some snow back into the area that was already cleared. The Tenant denies threatening the caretaker.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid.

The Landlord entered into written evidence a copy of the Notice. The first issue the Landlord identified on this Notice was:

Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I turn to the incident on December 27, 2017. The Tenant denies threatening the caretaker and says all of what the Landlord says is “bullshit”. The Landlord provided a contrasting version of events in which he states the Tenant was hostile and threatening to the caretaker because he was upset that snow was pushed back into the already cleared driveway. The Landlord also provided a signed letter from the caretaker corroborating what the Landlord has said on this matter.

I note these two versions of events are conflicting. However, I note the Landlord has provided documentary evidence from the caretaker to substantiate his version of events. I find the Landlord has provided a more compelling version of events and I have placed more weight on it. I find it more likely than not that the Tenant threatened the caretaker as indicated in the written letter. I also find it more likely than not that the Tenant kept calling the caretaker to verbally berate her afterwards. I note the caretaker was afraid to come back after her interactions with the Tenant.

I find this behavior is unacceptable and I find there is sufficient evidence to show that the Tenant unreasonably disturbed an agent of the Landlord. As such, I find the Landlord has sufficient cause to issue the Notice. The Tenant’s application to cancel the Notice is dismissed. The tenancy is ending, under the Notice, as described below.

Given my findings on this matter, it is not necessary to consider the other grounds listed on the Notice.

Under section 55 of the *Act*, when a tenant’s application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notice complies with the requirements of form and content. I find the Landlord is entitled to an order of possession effective **two days** after service on the Tenant.

Conclusion

The Tenant’s application to cancel the Notice is dismissed.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 31, 2018

Residential Tenancy Branch