



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The Barclay
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNR

Introduction

This is the Tenant's Application for Dispute Resolution made April 13, 2018, seeking to cancel a Notice to End Tenancy for Cause. This matter was first heard on May 9, 2018, and adjourned to June 7, 2018, by teleconference. An Interim Decision was issued on May 16, 2018, which should be read in conjunction with this Decision.

Both parties attended the reconvened Hearing.

Further to my Order of May 16, 2018, The Landlord testified that on May 29, 2018, served the Tenant with a photograph of an envelope attached to door 102 and dated March 5, 2018. The Landlord provided the photograph to the Residential Tenancy Branch on May 30, 2018. The Tenant stated that she did not get the document on March 5, 2018. She stated that she believed that the photograph may have been altered to change the date that it was taken.

Issue(s) to be Decided

Is the Notice to End Tenancy for Cause that was issued on April 3, 2018 (the "Notice") a valid notice to end the tenancy?

Background and Evidence

The Landlord testified that he gave the Tenant "6 or 7" verbal warnings in addition to the written caution notices. He stated that since the Notice was issued, the Landlord has received 4 more complaints from other occupants. He stated that the "problem is ongoing" and that "everyone except for one on the Tenant's floor has threatened to

move out” because of the Tenant. He stated that two more occupants have moved out since the Notice was issued.

The Tenant questioned the Landlord about why other occupants are afraid of her.

The Landlord replied, “you get aggressive”. The Landlord stated that the Tenant wrote a letter to another occupant after the Hearing on May 9, 2018, and that the Tenant asked for an apology from the other occupant.

The Tenant replied that she wrote a “polite letter” and told the occupant that “we could put it behind” us. She denied telling the other occupant to give her an apology.

The Landlord read the letter, dated May 11, 2018, aloud during the Hearing.

The Tenant stated that she did not get enough time to provide her oral testimony and stated that the Landlord is a liar.

Analysis

Both parties were given equal opportunity to provide oral testimony and documentary evidence, which was considerable. The Hearing on May 9, 2018, was adjourned after 65 minutes and the reconvened Hearing concluded after 25 minutes, for a total of 90 minutes. The parties each provided approximately 30 pages of documentary evidence.

The Notice provides the following reason for ending the tenancy:

REASONS FOR THIS ONE MONTH NOTICE TO END TENANCY (check all boxes that apply):	
<input type="checkbox"/>	Tenant is repeatedly late paying rent.
<input type="checkbox"/>	Tenant has allowed an unreasonable number of occupants in the unit/site.
<input type="checkbox"/>	Tenant or a person permitted on the property by the tenant has (check all boxes that apply): <ul style="list-style-type: none"><input checked="" type="checkbox"/> significantly interfered with or unreasonably disturbed another occupant or the landlord.<input checked="" type="checkbox"/> seriously jeopardized the health or safety or lawful right of another occupant or the landlord.<input type="checkbox"/> put the landlord's property at significant risk.
<input type="checkbox"/>	Tenant or a person permitted on the property by the tenant has engaged in illegal activities that have caused or may cause damage to the property.

The Notice does not provide details of the cause, which is what the Tenant is alleging she did not know.

The Tenant acknowledged receiving a written caution notice in January, 2018. She disputed receiving the written caution notices in February and March, 2018.

The Landlord provided copies of the Incident Reports from which the caution notices were issued. The three Incident Reports outlined complaints from three different occupants, living in three different suites on the same floor as the Tenant.

The January caution notice provides, in part:

DATE OF OCCURRENCE:	7:30 am Jan/ 04, 2018	INCIDENT:
<p>On January 04, the loud screaming noise and banging on the walls has disturbed and caused stress to the tenants in units around you. Please note that We have received complain, and we would like to request you to immediately stop it and ensure that it wouldn't happen in the future. The building needs to ensure safety and security of all tenants and violation to the article d(i) below, will result in ending the tenancy agreement.</p>		

The February caution notice provides, in part:

DATE OF OCCURRENCE:	Feb 04 2018	INCIDENT:
<p>On Feb 04, some of our tenants noticed that you were not able to get inside your unit because someone had gotten in and locked you out. The screams and banging of the door has caused disturbance to other tenants on the first floor. Please note that such behavior causes panic and sense of insecurity to others living in the building. The tenant beside you has mentioned that this incident has happened in the past as well. Please pay caution to other tenants peace of mind and stop this immediatl</p>		

The March caution notice, dated March 5, 2018, provides, in part:

DATE OF OCCURRENCE:	On going	INCIDENT:
<p>On March 05 2018, We have been notified by the tenant beside you about the cigarette smoke and smell of Marijuana coming out of your unit. Please note that this is a non-smocking building, especially smoking marijuana is illegal here. Please make sure to abide by your agreement terms with us and ensure that this incident doesn't happen anymore.</p>		

The Tenant denied receiving the March 5th caution notice. She reiterated that she was allowed to smoke cigarettes and that she did not smoke marijuana. I advised the Tenant during the Hearing that I was not basing my decision on whether or not she was smoking in the building or whether she was allowed to smoke cigarettes.

Based on the documents and the oral testimony provided by both parties, I find, on the balance of probabilities, that the Landlord has provided sufficient evidence that the Tenant and her invited guest have significantly interfered with and unreasonably disturbed other occupants in the building. I also find, on the balance of probabilities, that the Tenant received the February caution notice as well as verbal warnings with respect to her house guest`s behavior. The Tenant`s own documentary evidence refers to

conversations between the Landlord and the Tenant surrounding the Tenant's houseguest. I find that the Notice is a valid notice to end the tenancy.

I find that the Notice complies with Section 52 of the Act. The Tenant received the Notice on April 3, 2018 and therefore I find that the effective end of tenancy date was May 31, 2018.

Conclusion

The Tenant's Application to cancel the Notice is dismissed.

Pursuant to the provisions of Section 55 of the Act, I hereby provide the Landlord with an Order of Possession effective 2 days after service of the Order upon the Tenant. This Order may be enforced in 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: June 07, 2018

Residential Tenancy Branch