



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

The tenant applied under the *Residential Tenancy Act* (“Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated April 26, 2018 (“1 Month Notice”).

The tenant, the landlord and the spouse of the landlord who was identified as a co-landlord attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. After the parties were affirmed, the parties had the dispute resolution process explained to them and 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.

The landlord affirmed that he was unable to open the USB drive served on him by the tenant. The tenant affirmed that she did not confirm in advance of the hearing that the landlord was able to access the evidence on the USB drive which is required under the digital evidence requirements in the Rules of Procedure (“rules”). Given the above, I have excluded all digital evidence on the USB drive as I find that it was not served on the landlord as required by the rules and given the landlord’s testimony that he was unable to access the contents of the USB drive.

Preliminary and Procedural Matters

The parties confirmed their email addresses at the outset of the hearing. 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.

Issue to be Decided

- Should the 1 Month Notice be cancelled?

Background and Evidence

The parties agreed that a verbal tenancy began on July 1, 2012.

The tenant confirms that she was served with the 1 Month Notice dated April 26, 2018 alleging five causes. The five causes listed on the 1 Month Notice are:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
3. 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.
4. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.
5. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The tenant disputed the notice on May 1, 2018 which is within 10 days of being served with the 1 Month Notice on or about April 26, 2018. The effective vacancy date on the 1 Month Notice is listed as May 31, 2018.

During the hearing, the landlord referred to a document from the neighbour of the tenant who lives next door ("renter") and is also renting from the landlord. In that document the renter living next door complains to the landlord that she finds dog feces on her deck, barbeque and even on her door and for the tenant to stop doing that as she will clean up after her dog. The tenant denied during the hearing that she placed dog feces on the renter's door living next door or on her barbeque but later admitted in the hearing that she takes her shovel and throws the dog feces onto the renter's property next door and does not look to see where it lands.

At that point of the hearing, the tenant was advised that such behaviour is completely unreasonable and that I was more than satisfied that the 1 Month Notice was valid as a result.

Given the above, the parties were advised that I did not need to hear from the tenant's witness as based on the tenant's affirmed testimony I find the 1 Month Notice issued by the landlord was valid.

Analysis

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

1 Month Notice to End Tenancy for Cause – Although the landlord listed five causes on the 1 Month Notice, I am satisfied on the balance of probabilities that the 1 Month Notice is valid on the first cause which is 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 the tenant admitting that she has been taking a shovel and throwing it onto the neighbour renter's property is most certainly unreasonably disturbing the neighbour renter and is far from reasonable behaviour expected of a tenant. Therefore, I accept that the landlord has met the burden of proof that the 1 Month Notice is valid and that I do not need to consider any other cause as a result.

Given the above, I dismiss the tenant's application in full, without leave to reapply due to insufficient evidence. I uphold the landlord's 1 Month Notice. As the parties confirmed that money has been paid by the tenant for use and occupancy for June 2018, I grant the landlord an order of possession effective **June 30, 2018 at 1:00 p.m.** I find the tenancy ended on May 31, 2018 which was the effective date listed on the 1 Month Notice.

The order of possession was granted in according with section 55 of the *Act* which states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

- (a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**
- (b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*.

Conclusion

The tenant's application to cancel the 1 Month Notice is dismissed without leave to reapply as indicated above. The 1 Month Notice issued by the landlord is upheld. The tenancy ended May 31, 2018.

The landlord has been granted an order of possession effective June 30, 2018 at 1:00 p.m. as indicated above. 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: June 22, 2018

Residential Tenancy Branch