



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AVALON HOTEL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (“the Act”) for an order as follows:

- to cancel a 1 Month Notice to End Tenancy given for Cause (“1 Month Notice”) pursuant to section 47 *Act*.

Both the tenant and landlords R.D. and S.L. attended the hearing by way of conference call. All parties present were given a full opportunity to be heard, to present their sworn testimony and to make submissions under oath.

The tenant confirmed receipt of the landlord’s 1 Month Notice to End Tenancy for Cause, while the landlord confirmed receipt of the tenant’s application for dispute and evidentiary package. The tenant acknowledged receiving the landlord’s evidentiary package. I find both parties were duly served in accordance with the *Act*.

Issue(s) to be Decided

Can the tenant cancel the landlord’s Notice to End Tenancy? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

Testimony provided by the tenant explained this tenancy began in June 2015. Rent is \$500.00 per month and a security deposit of approximately \$250.00 paid at the outset of the tenancy continues to be held by the landlord.

On August 13, 2018 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause ("1 Month Notice"). The reasons cited on the 1 Month Notice were listed as follows:

Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlords explained that an incident involving the tenant and landlord R.D. on August 11, 2018 led to the issuance of the 1 Month Notice. The landlords detailed an attempted monthly inspection of the tenant's rental unit which resulted in a conflict between the parties. The landlords alleged the tenant pushed landlord R.D. out of his room and subjected her to a barrage of crude and vulgar insults. Landlord R.D. stated the police were not contacted but the incident left her upset. A letter sent to the tenant on August 13, 2018 from the landlord described management [landlord R.D.] as feeling "unsafe and disrespected" and warned, "if you continue to act out or be rude the staff have been notified to call the cops immediately."

In addition to the above incident, the landlord described other warnings and complaint letters which had been received. Specifically, the landlord submitted letters from October 18, 2017, August 14, 2018, August 22, 2018 and August 24, 2018. The landlords asked that the incidents described in these letters all be considered together as evidence that the tenant had continuously disturbed other occupants in the building and the landlords.

A warning letter dated October 18, 2017 documented an incident that occurred between the tenant, a resident named M. and the management. It said, "you verbally threatened me by stating *that I better smarten up otherwise you will go to the media and take legal action* this kind of threats are not tolerated at the [property]." While the complaint letters from August 2018 were written by fellow tenants who described incidents with the tenant.

The tenant acknowledged an incident occurred between himself and landlord R.D. but explained he felt harassed and bullied. The tenant said he had expected the landlord to attend his suite for an inspection on August 10, 2018 as per the notices of suite inspection placed throughout the building and became frustrated when no person attend the suite as per the time and date posted on these notices. Both parties acknowledged that individual notices of suite inspection were not provided to the tenants but rather notice announcing these inspections were posted in high traffic areas of the building

such as the main hallway. The tenant said he had taken steps to prepare his suite for the inspection and was surprised when no person attended. The tenant said he often does not leave his suite for an entire day thus making it difficult to prepare for any updated announcements or change in circumstance.

Analysis

The tenant has applied to cancel a 1 Month Notice served to him by the landlord on August 13, 2018. The reasons cited on the notice were listed as follows:

Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

After reviewing all evidence submitted and having considered the testimony provided by both parties at the hearing, I find the landlord has failed to provide sufficient evidence that the tenant disturbed the landlord or another occupant as described in the notice to end tenancy. The landlord provided several complaint and warning letters in their evidentiary package; however, I note that all but one of the complaint/warning letters was written *following* the issuance of the 1 Month Notice. I therefore decline to consider this evidence for the purpose of the 1 Month Notice issued on August 13, 2018. This leaves me to consider only the incident of August 11, 2018 and the warning letter from October 2017.

I find the threat made by the tenant to the landlord documented in the October 2017 warning letter to be baseless and without merit. Little evidence was presented that the tenant intended on following through with “contacting the media” or to “pursue legal action” nor can a threat of this nature be reasonably considered to meet the criteria listed on the notice to end tenancy.

The second incident described by the landlord is of significantly more concern. I find the tenant’s hostile and aggressive behaviour towards landlord R.D. to be inexcusable and do not accept the tenant’s explanation that he was unreasonably disturbed by this intrusion. While a mistake may have occurred as it related to proper notice being given to the tenant regarding a property inspection, the tenant had no justification to speak to the landlord in the manner which was described. Despite this rude and aggressive language and behaviour, I find the landlord has failed to how her health or safety was *seriously* jeopardized. The police were not called to investigate, and there is little evidence that landlord R.D. suffered any significant consequences or long term effects

following this interaction. For these reasons, I dismiss the 1 Month Notice issued to the tenant on August 13, 2018. The tenant is cautioned to conduct himself in a more civil manner when interacting with the landlord or other occupants. This decision does not prevent the landlord from seeking future relief under the *Act*.

Conclusion

The was successful in cancelling the landlord's 1 Month Notice to End Tenancy for Cause issued on August 13, 2018 This tenancy shall continue until it is ended in accordance with the *Act*.

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: September 7, 2018

Residential Tenancy Branch