



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASTLEGAR VILLA SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to the recovery of the filing fee from the landlord for this application?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about March 1, 2014. Rent in the amount of \$326.00 is payable in advance on the first day of each month. The landlord issued a One Month Notice to End Tenancy for Cause on

September 19, 2018 with an effective date of October 31, 2018 for the following reasons:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

The landlord testified that on September 17, 2018 the tenant entered another tenant's suite and assaulted her and defecated and urinated on her belongings. The landlord testified that the police attended and that the subject tenant has been criminally charged for assault and has a "no contact" order with the victim tenant. The landlord testified that the victim is afraid for her safety as she is 71 years old. The landlord testified that the victim is fearful of retribution and feels she can't go into any of the common areas of the building. The landlord testified that the victim feels like a prisoner in her own home. The landlord testified that she personally observed the physical injuries to the victim that included bruises to the face and arms. The landlord testified that they seek an end to this tenancy as soon as possible and request an order of possession.

The tenant gave the following testimony. The tenant testified that he has been criminally charged and that his first court date is December 12, 2018. The tenant testified that he has had no communication with the victim since he was arrested. The tenant testified that has not received all of the particulars for his case and is in discussions with his lawyer.

Analysis

When a landlord issues a notice under section 47 of the Act, they bear the responsibility to provide sufficient evidence to support the issuance of the notice. The tenant testified that he would neither confirm nor deny the allegations until his court case is concluded. I found the tenant was extremely evasive in his testimony and refused to answer simple direct questions. Despite my numerous attempts to glean information from the tenant and to provide him full opportunity to be heard, the tenant continually answered that until the matter was addressed in court he would not be able to comment.

I find that the landlords' testimony and documentation has proven each of the grounds as noted on the notice to end tenancy. Based on all of the above, I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act. The form and content of the Notice is in accordance with the Act. The One Month Notice to End Tenancy for Cause dated September 19, 2018 is in full effect and force. The tenancy is terminated.

Conclusion

The landlord is granted an order of possession.

The tenants' application is dismissed in its entirety

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: November 05, 2018

Residential Tenancy Branch