



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAAMCO INTERNATIONAL PROPERTIES CANADIAN LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

Two agents for the Landlord (the “Landlord”) were present for the teleconference hearing, as well as two witnesses who joined during the hearing to present their testimony. The Tenant was present along with a legal advocate and an advocate (the “Tenant”).

The parties confirmed service of the Notice of Dispute Resolution Proceeding package as well as a copy of each party’s evidence. During the hearing, the Landlord questioned whether they had a copy of the Tenant’s evidence that the Tenant was referencing. The Tenant submitted a video in which she put the envelope of evidentiary material into the mail slot of the Landlord’s office. It was confirmed that both parties had copies of the evidence package that had also been submitted to the Residential Tenancy Branch. Therefore, I find that both parties were duly served in accordance with Sections 88 and 89 of the *Act*.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

The parties confirmed the details of the tenancy as stated in the tenancy agreement that was submitted into evidence. The tenancy began on December 1, 2014. Current monthly rent is \$900.00, including parking. A security deposit of \$412.50 and a pet damage deposit of \$412.50 were paid by the Tenant.

The Landlord served the Tenant with a One Month Notice on October 11, 2018 by posting the notice on the Tenant's door. The Tenant confirmed that she received the One Month Notice on October 11, 2018.

The One Month Notice was submitted into evidence and states the following as the reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord
- 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

The effective end of tenancy date of the One Month Notice was stated as November 30, 2018.

Along with the One Month Notice, the Landlord provided the Tenant with a letter stating that they have received nine complaints from other tenants in the rental building. The letter, dated October 11, 2018, further states that the complaints are regarding harassing, bullying, intimidating, pursuing, and terrorizing others in the building.

The Landlord stated that other tenants are afraid to leave their rental units due to being confronted in the hallway by the Tenant attempting to initiate an argument.

A witness for the Landlord, who resides in the same rental building, testified regarding a few times in which the Tenant came right up to her face yelling at her. The witness noted an incident on May 5, 2018 in which she advised the Tenant not to take her dog outside due to it being in heat. The witness reported that the Tenant confronted her by getting right up to her face.

The witness testified as to another incident where the Tenant and witness were waiting for the elevator with their dogs and the Tenant told the witness she could wait for the next elevator. A few days later, the witness stated that the Tenant approached her in the hallway and confronted her close to her face. The witness stated that she is not comfortable leaving her rental unit due to the behaviour of the Tenant in the hallways.

The Landlord testified as to an incident on May 20, 2018 in which the Tenant did not obey signs to not enter a certain area of the rental building. They also noted that the Tenant took photos of others without permission.

A second witness for the Landlord testified as to an incident when the witness came back from walking her dog when she saw the Tenant talking to another person. The Tenant said something insulting to the witness, so the witness told the Tenant to "shut up". The witness stated that the Tenant called the police.

The second witness further stated that many of the other residents of the building have told her that the Tenant steals bottles that the residents leave for the witness. The witness said she has not seen this happen directly, but that she has been confronted by the Tenant standing outside the door of her rental unit and coming right up to her face.

The witness also testified as to times when she has seen the Tenant hiding in various areas of the rental building listening to what others are saying. The witness stated that the Tenant makes her nervous and she takes all steps possible to avoid her in the hallways.

The Landlord submitted approximately 12 incident reports into evidence from other residents of the rental building or staff members. They also submitted approximately 7 notes, letters or emails as documentary evidence.

The incident reports and other notes reference incidents regarding the Tenant in which other residents of the building felt that the Tenant was rude or aggressive. One incident report dated May 5, 2018 states that the resident tried to talk to the Tenant about why walking her dog when in heat may be dangerous. The incident report states that the Tenant "became aggressive and refused to discuss the situation".

Another incident report dated May 20, 2018 notes that the Tenant did not listen to another resident when they told her not to go out onto the deck off the lounge, despite there being a sign telling people not to go out there.

A note and an incident report both dated June 19, 2018 speak of an incident where the Tenant took photos of others without their permission. A letter from a building resident dated

July 16, 2018 states that the Tenant makes comments about this resident's dog and "plays games" in the elevator, as well as crouches and hides in the hallways which is "creepy".

An email dated September 5, 2018 states that the Tenant was seen outside the building with an elderly woman and the Tenant was treating the woman badly.

Some of the other notes and incident reports note that the Tenant speaks "harshly" to other residents in the building or speaks in a threatening manner. They also state that the Tenant is unpredictable.

The Tenant provided testimony that she has never received any written warnings regarding concerns from the Landlord. She also submitted that there is no proof that she has stolen bottles from one of the witnesses, and if she had the Landlords would have had security camera footage.

The Tenant stated her belief that the other tenants in the building are colluding against her without any provocation from the Tenant. She submitted an audio recording of an incident with another resident at the elevator.

Although difficult to hear the audio recording, the Tenant stated that in the recording she is not berating the other resident but asked if the resident could wait for the next elevator due to both of them having their dogs with them.

The Tenant noted that the pet policy for the rental building outlines that this can be done for safety of the pets in the building. The pet policy was submitted into evidence with clause 7 stating that residents must respect each other and not board the elevator if requested.

The Tenant submitted a letter dated May 5, 2018 from the Tenant to the Landlord. The letter outlines an incident in which another resident in the building was threatening and intimidating towards the Tenant regarding her dog possibly being in heat. The letter notes that the other resident had aggressive language and behaviour towards the Tenant.

An email dated May 7, 2018 was also submitted into evidence from the Tenant. In the email to the Landlord the Tenant notes that another resident is harassing her and displaying anger towards her. The Tenant notes in the email that the other resident called the police as well as animal control.

The Tenant also noted an incident where she was helping an elderly lady in the building who seemed to be lost. She stated that she was accused of being rude to the lady but stated that she helped her and also called the police.

The Tenant submitted into evidence an email from the police officer to the Tenant dated October 16, 2018. In the email the police officer confirmed that the Tenant was helping an elderly lady who was in need of medical help and that the Tenant was responding to the lady with dignity and respect. The email also noted that the neighbour of the Tenant was interfering with the Tenant's efforts to help.

The Tenant stated her belief that these have been minor incidences that have occurred in the building and that they can be overcome by all the building residents working together.

She stated that she has experienced inappropriate language towards her from other building residents and tries to keep her interactions with others in the building calm, such as when she asked to take separate elevators to avoid an issue with between her dog and another resident's dog.

Analysis

I refer to Section 47(4) of the *Act* which states that a tenant has 10 days in which to dispute a One Month Notice. As the Tenant received the One Month Notice on October 11, 2018 and she applied for Dispute Resolution on October 19, 2018, I find that she applied within the timeframe provided under the *Act*. Therefore, the issue before me is whether the reasons for the One Month Notice are valid.

As stated by rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, when a tenant applies to dispute a notice to end tenancy, the onus is on the landlord to prove, on a balance of probabilities, that the reasons for the notice are valid.

The One Month Notice was issued on two grounds; illegal activity that affects the quiet enjoyment, security, safety or physical well-being of other occupants, pursuant to Section 47(1)(e)(ii) of the *Act*, and that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, pursuant to Section 47(1)(d)(i) of the *Act*.

As for the claim of illegal activity, the Landlord and a witness presented testimony that the Tenant has been stealing bottles/cans from one of the witnesses. This was denied by the Tenant. When two parties to a dispute provide conflicting testimony, it is up to the party with the burden of proof to submit sufficient evidence over and above their testimony to establish their claim.

A witness for the Landlord presented testimony that many of the other building residents had told her that the Tenant was stealing bottles that were left for the witness. However, neither the witness nor the Landlord had seen this occur and there was insufficient evidence to establish that this is occurring.

The Landlord did not testify as to any other illegal activity by the Tenant, other than the claim of stealing bottles. As such, I find that the Landlord did not establish that the Tenant is engaging in illegal activity that is causing a risk to others and therefore I find that the Landlord did not prove that the tenancy should end based on this ground.

As for the claim of significant interference or unreasonable disturbance, again the parties were not in agreement as to what has been occurring. The Landlord submitted numerous incident reports, notes, emails and other documentary evidence.

While some of the incident reports and notes state that the Tenant was abusive, or used harsh language, there are very few specific details provided. Many of the incident reports and other material note general concerns such as the Tenant acting “weird” or “creepy”, without explanation as to behaviours of the Tenant that may be cause for concern to others.

Some of the incidents described indicate concern regarding harsh language from both parties, leading to difficulty in determining who initiated the conflict.

I also find that the evidence submitted by the Tenant contradicts some of the complaints from other building residents, such as the email from the police officer that confirms that Tenant was trying to help an elderly woman that had entered the building, with another resident of the building interfering.

I also find some of the Tenant’s explanations regarding events that the Landlord submitted complaints about to be reasonable, such as asking a resident with a dog to take another elevator to prevent an issue between the dogs, as outlined in the pet policy.

Although the Landlord submitted a large number of complaints, I do not find the amount submitted to necessarily indicate that the Tenant is causing significant disturbance. Upon review of the complaints, as well as the testimony of the Landlord and witnesses, it seems that there is some conflict between the Tenant and other residents in the building.

However, given the conflicting testimony of the parties, I do not find sufficient evidence to establish that the conflicts are due to the behaviour of the Tenant or that they are instigated by the Tenant.

Therefore, based on the testimony and evidence of both parties, I am not satisfied that the reasons for the One Month Notice are valid. I do not find that the Landlord has established that the Tenant is causing *significant* interference or *unreasonable* disturbance to others in the rental building. Instead, I find that the Tenant was successful in her application to cancel the One Month Notice.

The One Month Notice, dated October 11, 2018, is hereby cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

Conclusion

The One Month Notice dated October 11, 2018 is cancelled and of no force or effect. This tenancy continues until 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: December 3, 2018

Residential Tenancy Branch