



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WELBEC QUESNEL LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on December 28, 2018.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary and Procedural matters

In this case the parties were at a dispute resolution hearing on December 13, 2018. The tenant’s application to cancel a notice to end tenancy was granted. The parties were informed that any issues that were heard at the previous hearing will not be considered at today’s hearing.

Issue to be Decided

Should the Notice issued be cancelled?

Background and Evidence

The tenancy began in 2017. The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on February 28, 2019.

The reason stated in the Notice was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk;

The 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; and
- jeopardize a lawful right or interest of another occupant or the landlord.

The landlord testified that on December 8, 2018, a new renter had moved into the building. The landlord stated that the new renter's family was dropping off some furniture and accidentally knocked on the tenant's window.

The landlord testified that the tenant was yelling and punched one of the new renter guest's in the nose, causing blood to be all over the flooring. The landlord stated that due to the action of the tenant the new renter moved out as they were scared to live in the building. Filed in evidence is a written letter of the new renter.

The tenant testified that on that day they were harassed by another occupant in the building as they being asked for cigarettes. The tenant stated that they then went to have a sleep and then someone started banging on their window.

The tenant testified that they do have a temper and they were upset because of the banging on the window. The tenant stated they went outside and slapped the person.

The advocate for the tenant argued that the person would not have been slapped had they not banged on the tenant's window. The advocate stated that the police did not charge the tenant.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- jeopardize a lawful right or interest of another occupant or the landlord.

In this case, the tenant acknowledged that they slapped one of the occupant's guests, when they accidentally knocked on the tenant's window, rather than occupant's window. I find the tenants action did significantly interfered with and jeopardize the occupant's lawful right as they are entitled to have their guest attend the property with being physically assaulted. Any acts of violence are not acceptable. Further, as a result of the tenant's action the occupant moved out as they were fearful of the tenant.

I find the Notice issued on December 28, 2018, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenant's application to cancel the Notice. The landlord at the hearing agreed to extend the effective date of the Notice to March 31, 2019. The tenancy will end in accordance with the Act.

Since I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **March 31, 2019, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

The tenant is cautioned that if they display any further acts of violence for the balance of the tenancy, the landlord is entitled to apply for an earlier end to tenancy and obtain an order of possession.

Conclusion

The tenant's application to cancel the Notice, issued on December 28, 2018 is dismissed.

The landlord is granted an order of possession.

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: February 12, 2019

Residential Tenancy Branch