



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the adjourned Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on December 28, 2018. The matter was set for a conference call.

The Landlord and the Tenant attended the first and second hearings, and a witness for the Landlord attended the first hearing, each were affirmed to be truthful in their testimony. The Landlord and the Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Landlord and the Tenant testified that they received each others documentary evidence that I have before me.

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 oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary matter – Conduct

The Residential Tenancy Branch Rules of Procedure, state the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

During the hearing, both parties were cautioned, no less than five times, regarding interruptions and inappropriate behaviour during the hearing. The Landlord continued to interrupt the testimony of the Tenant, resulting in the Landlord's phoneline being placed on mute during the Tenant's testimony.

Additionally, during the cross examination of the Landlord's witness, the Tenant attempted to ask the witness to testify to his current education level, his current immigration status, and his current level of employment. The Tenant was unable to satisfy this arbitrator as to why these lines of questioning were relevant to these proceedings. Therefore, the witness was instructed that he did not have to answer these questions and the Tenant was instructed to cease this line of questioning.

Issues to be Decided

- Should the Notice issued on December 28, 2018, be cancelled?
- If not, is the Landlord entitled to an order of possession?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here.

The parties were in agreement as to the details of the tenancy. The tenancy began on February 1, 2014, and was for the rental of a room in a shared accommodations rental house. The parties testified that the rental house houses four to six occupants under separate tenancy agreements, whom each have their a room and a share the common

areas of the home. Monthly rent is \$660.92, and no security deposit was paid for this tenancy.

The Landlord testified that in the first a few months of this tenancy the Tenant had got along fine with the other occupants of the rental house. However, after a few months, the Tenant started to get into bad arguments and fights with the other occupants. The Landlord testified that the Tenant likes to control the whole house and when the other occupants do not do as she tells them the Tenant insults and degrades them so much that they lock themselves in their rooms to get away from the Tenant for their safety. The Landlord testified that the Tenant is also using more than her share of the cupboard, fridge space and common area spaces, that are to be shared among the occupants of the house.

The Landlord testified that she had spoken to the Tenant several times, over the life of this tenancy, regarding her aggressive and controlling behaviour towards the other occupants, and her overuse of cupboard and fridge space. The Landlord testified that she had asked the Tenant numerous times not to disturb other occupants of the house and that if she had any issues with the other occupants to bring them to the Landlord to resolve. However, the Tenant has repeatedly not done this and instead has chosen to aggressively engage the other occupants of the rental house, verbally, physically and by leaving threatening notes. The Landlord submitted three letters that the Tenant has left, in the house, for the other occupants and the Landlord into documentary evidence.

The Landlord testified that over the past two years, she had lost more than ten occupants/renters because of the Tenant's bad behaviour and constant harassment of the other occupants of the rental house. The Landlord testified that she has done her best to try and rectify the situation, but that the Tenant's inability to get along with the other occupants is getting worse.

Additionally, the Landlord testified that anytime she tries to speak to the Tenant, regarding her behaviour, the Tenant starts to fight with the Landlord. The Landlord testified that the Tenant had threatened to harm her and yelled insults towards the Landlord. The Landlord testified that the Tenant screams and argues so loudly that it disturbs the whole houses and scares the Landlord. The Landlord also testified that the Tenant has sent her numerous emails demanding that the Landlord make the other occupants of the rental house comply with her cleaning and space sharing rules. The Landlord testified that the Tenant is harassing her and the other occupants of the rental house and that the Tenant actions constitute an unreasonable disturbance to her and the other occupants. The Landlord is requesting an Order of Possession to enforce her

Notice to end tenancy. The Landlord became very emotional during her testimony, breaking into tears, stating that she could no longer handle dealing with the Tenant and that she could not be a Landlord to this person any longer.

The Landlord submitted 17 letters of complaint, that she had received from the other occupants of the rental house, regarding the Tenant's behaviour towards them, four of which are dated in December 2018, and one dated February 2019. The Landlord also submitted into documentary evidence, two letters from previous occupants of the rental house, and one from a current occupant which state that they were ending their tenancy's due to the behaviour of the Tenant. Additionally, the Landlord also submitted 20 pictures of the Tenant's personal property stored in common areas of the rental house, into documentary evidence.

The witness for the Landlord testified that he had personally been harassed by the Tenant and that the Tenant had been very aggressive and threatening towards him when he did not follow the Tenant's rules for cleaning and sharing common spaces/areas. The witness testified that he had issued notice to the Landlord that he would be ending his tenancy due to the constant harassment he has received from the Tenant and that he does not feel safe living in the rental house with this Tenant. The witness also testified that the Tenant's treatment of him had negatively affected his mental state.

The Tenant testified that she feels that the other occupants of the rental house are being unfair towards her and were not respecting her requests for personal space. The Tenant testified that she has had several heated interactions with the Landlord and the other occupants of the rental house, however, the Tenant stated that she had acted appropriately in those situations. The Tenant submitted two five-page responses to the claims being made about her by the Landlord, into documentary evidence.

The Tenant testified that she does not use more than her share of the fridge and cupboard space. Additionally, the Tenant testified that she believes it is a reasonable request to ask to use, common areas, in the rental house, by herself, from time to time. The Tenant submitted a one-page letter she had sent to one of the occupants of the rental house, into documentary evidence.

The Tenant testified that she had not harassed the other occupants of the rental house and that her tenancy should not end.

Analysis

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

I find that the Tenant received the Notice to End Tenancy on December 28, 2018. Section 47 of the *Act* states the following:

Landlord's notice: cause

47 (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

Pursuant to section 47, I find the Tenant had until January 7, 2019, to file her application to dispute this Notice. I have reviewed the Tenant application for dispute resolution, and I find that the Tenant filed her application on December 31, 2018, within the legislated timeline.

I have carefully reviewed the testimony of the parties and the documentary evidence that I have before me in this case. I find the written complaints from the occupants of the rental house regarding the Tenant to be a credible account of the disturbance caused by the Tenant on the rental property. I also find that the other occupants of the rental property would have been unreasonably disturbed by the actions and behaviour of the Tenant, detailed in the written complaints.

For the reason stated above, I find that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. Therefore, I dismiss the Tenant's application to cancel the Notice issued on December 28, 2018.

Section 55(1) of the *Act* 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.

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the *Act*. As I have dismissed the Tenant's application, and pursuant to section 55 of the *Act*, I must grant the Landlord an order of possession to the rental unit.

Therefore, I find that the Landlord has proven her entitlement to an order of possession. Pursuant to sections 55 of the *Act*, I grant an Order of Possession to the Landlord effective two days after service of the order on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that the costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant's application to cancel the Notice, issued on December 28, 2018, is dismissed. I find the Notice is valid and complies with the *Act*.

I grant an **Order of Possession** to the Landlord effective **two days** after service of this Order on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 19, 2019

Correction Dated: February 22, 2019

Residential Tenancy Branch