



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, ERP, FFT, LRE, MNDCT, PSF, RP

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to section 47;
- cancellation of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Ten Day Notice"), pursuant to section 46;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order for emergency repairs, pursuant to section 33;
- an Order that the landlord's right to enter be suspended or restricted, pursuant to section 70;
- an Order for regular repairs, pursuant to section 32;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65; and
- authorization to recover the 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.

Preliminary Issue

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claims regarding the One Month Notice and the Ten Day Notice and the continuation of this tenancy are not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notices to End Tenancy.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notices to End Tenancy. I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except cancellation of the notices to end tenancy and recovery of the filing fee for this application.

Issue(s) to be Decided

Is the tenant entitled to have the notices to end tenancy cancelled? If not, is the landlord entitled to an order of possession?

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

Background and Evidence

Both parties agree that the tenancy began on September 24, 2018 for a fixed term that is to end on April 30, 2019. The parties disagree in regards to the monthly rent. The tenant alleges that the rent is \$1200.00; the landlord alleges that it is \$1800.00 per month.

The landlord gave the following testimony. The landlord testified that the tenant has caused extreme stress in her life and feels that the tenant is a threat to her, her children and her property. The landlord issued a One Month Notice to End Tenancy for Cause on February 28, 2019 for the following reasons:

Tenant or a person permitted on the property by 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.*

And

- *the tenant knowingly gave false information to prospective tenant or purchaser of the rental/unit/site or property/park*

The landlord testified that the tenant has taken actions that are a danger to herself, her family and the property by cutting off the electricity and gas. The landlord testified that the most disturbing and stressful actions that the tenant has taken has been to call many local and government authorities and make false allegations in terms of her property, her pet, and her children. The landlord testified that the tenant has caused her so much grief and anxiety in dealing with all of those agencies. The landlord testified that the tenant has also posted slanderous comments online about her. The landlord seeks an order of possession.

The tenant gave the following testimony. The tenant testified that the landlord is the one causing all of the stress in the relationship by not carrying out her responsibilities as a landlord. The tenant testified that she attempted to help the landlord as often as she could but to only be accused of wrong doing after she helps. The tenant testified that she is willing to move out at the end of June if the landlord carries out her duties and responsibilities.

Analysis

The relationship between these two parties is an acrimonious one. Both parties were cautioned numerous times about their behaviour and demeanour during the hearing. At times the parties were in a highly charged screaming match with each making allegations of “liar and fraud” to each other. The parties were more intent on arguing with each other than answering questions or presenting their position.

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant’s claims and my findings are set out below.

Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties’ testimonies, their content and demeanor as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

Considered in its totality I find the landlord to be a more credible witness than the tenant. The landlord provided consistent, logical testimony which was supported with documentary evidence where available. The landlord admitted when she could not recall specific facts and, where appropriate, referred to her notes and documents prepared prior to this hearing to assist her recollection.

The tenant was argumentative, focused on irrelevant matters and conducted herself in an agitated and irrational manner. I found that much of the tenant's submissions to have little to do with the matter at hand and was concerned with attacking the landlord and making herself appear to be the wronged party. When given the opportunity to cross-examine the landlord the tenant chose to ask irrelevant personal questions rather than any substantive matter. In addition, the tenant stated at the outset of the hearing and confirmed again at the end of the hearing, that she altered the tenancy agreement in attempts to get funding from her native band to benefit her son and receive funds that he would not be otherwise entitled to. I find that the tenant was willing to cross any boundary to get her a favourable outcome in whatever she chose.

Based on the foregoing, where the evidence of the parties clashed I found that the landlord's version to be more credible and consistent with how a reasonable person would behave. I have not considered the discrepancy in the rent payable as both parties were adamant about providing testimony in terms of the One Month Notice. I have considered and made a decision on that basis.

The tenant called numerous agencies to make meritless reports against the landlord. Those agencies included but not limited to; SPCA, Ministry of Child and Family, The Technical Safety Board, Revenue Canada and numerous calls to the Branch seeking an intervention. I find that the landlord has provided sufficient evidence on a balance of probabilities, to support their claim that the tenant has "*significantly interfered with or unreasonably disturbed another occupant or the landlord*". Based on the above, I find that the One Month Notice dated February 28, 2019 is confirmed, it is of full effect and force.

I find that the notice complies with section 52 of the Act in its form and content and hereby grant the landlord an order of possession pursuant to section 55 of the Act.

As I have found that the tenancy has ended, I need not consider the merits of the 10 Day Notice to End Tenancy for Unpaid Rent.

Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective at **1:00 p.m. on April 30, 2019**, which should be served 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. The tenancy is terminated.

The tenants application is dismissed without leave to reapply save and except for the monetary portion.

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: April 04, 2019

Residential Tenancy Branch