



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNC

Introduction

This hearing was convened in response to an application by the tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- cancellation of the landlord’s One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47.

The hearing was conducted by conference call. All named parties attended the hearing. The landlord acknowledged service of the tenant’s application for dispute resolution. The tenants acknowledged service of the landlord’s evidence package in response.

Issues

Should the One Month Notice be cancelled? If no, is the landlord entitled to an order of possession for cause?

Background and Evidence

The tenancy for this subsidized housing unit began on February 7, 2019. The monthly rent is \$375.00 payable on the 1st of each month.

On March 11, 2019 the landlord served the tenants with a One Month Notice by posting a copy to the door of the rental unit. The tenants filed an application to dispute the Notice within the applicable time period under the Act.

The landlord issued the One Month Notice on the grounds that the tenants significantly interfered with or unreasonable disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

I note that the copy of the One Month Notice submitted on file by the landlord was dated March 8, 2019 and contained slightly different reasons to end the tenancy. The landlord

could not explain why there were two One Month Notices with different dates and slightly different reasons. Both parties agreed that the One Month Notice dated March 11, 2019 be relied on for the purpose of this hearing.

On behalf the landlord, the supervisor K.E. testified as follows:

- The building is staffed 24 hours.
- On March 7, 2019 at 2:00 in the afternoon a violent assault was caught on the security footage in which the tenant D.F. attacked an unknown person. Video clips of the attack were submitted as evidence.
- It appears a baton was used by the tenant as a weapon in the attack.
- The attack was unprovoked and continued for 1-1 ½ minutes.
- The attack occurred in front of the office within the rental building.
- The incident was broken up by staff.
- A police report was filed.
- The incident has left staff and other tenants feeling unsafe.

On behalf of the tenants, D.F. testified as follows:

- The “person” whom he assaulted on March 7, 2019 was no gentlemen.
- Approximately two months prior to the assault incident, which was also prior to commencement of this tenancy, this “person” had assaulted him by slicing his hands with a meth pipe. This altercation occurred in another tenant’s place. He was an occupant in the building at this time not a tenant.
- On the day of the March 7, 2019 assault, he was acting out of necessity.
- When he saw the “person” walk by he saw “red”.
- He was not arrested or questioned by the police on this day but rather the police were called afterwards.
- The landlord has a zero tolerance policy on violence however the landlord has not enforced this policy when a slew of violent actions and threats were made against them.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

The facts of this case were essentially not in dispute. On the afternoon of March 7, 2019, the tenant was captured on security footage violently assaulting an unknown person. The tenant did not dispute the assault occurred.

I find that assaulting another business on the rental premises in the middle of the afternoon in the presence of staff, the tenant has seriously jeopardized the health and safety of the landlord's staff and the landlord's lawful right to provide a safe housing environment. The tenants argument that the person whom he assaulted was no gentlemen or that this person had attacked him two month prior, does not give him the right to carry out an assault of his own. I dismiss the tenants' argument that the landlord did not enforce the zero tolerance policy with respect to violence or threats against the tenants themselves. The tenants did not provide any evidence of violence or threats made against them while they were tenants of the building and whether or not any reports were made to the landlord.

I find that the landlord has provided sufficient evidence to justify that it had cause to issue the One Month Notice. The tenants' application to cancel the One Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. 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: May 14, 2019

Residential Tenancy Branch