



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC ERP LAT OLC MNDC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on May 6, 2019. The Tenant applied for multiple remedies pursuant to the *Residential Tenancy Act* (the "Act").

The agent of the Landlord (the Landlord) and the Tenant both attended the hearing. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties acknowledged receipt of each other's documentary evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As

a result, I exercised my discretion to dismiss all of the grounds on the Tenant's application, with leave to reapply, with the exception of the following claim:

- to cancel the 1 Month Notice to End Tenancy for Cause (the Notice).

Issue(s) to be Decided

- Should the Notice be cancelled?

Background and Evidence

The Tenant acknowledges receiving the Notice on March 4, 2019. The Notice indicates the following reasons for ending the tenancy on the second page:

Tenant or a person permitted on the property by the tenant has:

1. *significantly interfered with or unreasonably disturbed another occupant or the landlord.*
2. *seriously jeopardized the health or safety or lawful right of 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:

3. *jeopardize a lawful right or interest of another occupant or the landlord.*

The Landlord issued the Notice for several reasons. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine whether there are sufficient grounds to end the tenancy. In other words, my decision will focus on the first ground identified by the Landlord, as this ground is what my decision hinges upon.

The Landlord stated that the Tenant rents one bedroom in an 8 bedroom house; all of these bedrooms share common living areas (kitchen, bathrooms, living room etc). The Landlord stated that as of June 30, 2018, the Tenant has been the only person living in the house. The Landlord stated that there is a both a property manager and an inspection management company involved in this rental unit. The Landlord stated that on July 6, 2018, they went to take photos of the common areas of the house (provided into evidence), and noted some small messes, but generally it was acceptable. The

Tenant stated that she had to clean up a big mess once the others moved out, and it is not fair she had to clean up their mess. The Tenant also stated there is no proof that the photos were taken on that date. The photos submitted by the Landlord have timestamps within the file contents which corroborate the date they said they were taken.

The Landlord stated that in January of 2019 the inspection management company was brought in to conduct inspections of the rental unit. Shortly thereafter, the inspections commenced, and the Landlord stated they became aware fairly quickly that there was a large, unhygienic mess in the common areas of the home. The Landlord stated that the first inspection was done on January 15, 2019, and they had a conversation with the Tenant at the inspection about needing to clean the house up. The property manager for the rental house had expressed to the Landlord that the house was completely un-rentable given how dirty it was, which is why the inspection company was contracted.

The Landlord booked a follow up inspection on January 23, 2019, to determine if the common areas had been cleaned. The Tenant was not present for this inspection. The Landlord stated that no progress had been made, and photos were taken, and provided into evidence. The photos also show the timestamp corroborating that they were taken on this date. They also show the common areas of the house were full of piles of garbage, expiring/unsanitary food prep areas, dirty sinks, stove, and had very messy refrigerators.

The Landlord stated that another inspection was done on February 4, 2019, and it was noted that there was marginal, if any improvement. The Tenant was not present for this inspection. The Landlord stated that they posted a caution notice on the Tenant's door on February 14, 2019, stating that the Tenant needed to remedy the mess, or face eviction. The Landlord stated that they did another inspection on February 19, 2019, and noted "minimal" cleanup, and the mess was still extreme. The Landlord stated that since they would be unable to re-rent any of the other rooms, or even show it to prospective tenants, they decided to issue the 1 Month Notice to End Tenancy. The Landlord stated that due to the mess, the rest of the rooms were un-rentable, which was costing thousands of dollars in revenue per month. The Landlord stated that the Tenant is solely responsible for the mess, given she was the only one living there since last July 2018.

The Tenant stated that the previous tenants did not fully clean up before they left, so she was left cleaning up after them. The Tenant stated that it was never communicated to her that anyone else would be moving in. The Tenant stated she thought she was going to be the only one living there. The Tenant stated she spoke with the neighbours

who advised that there is a pending development of the property, and the Tenant believes the Landlord is just issuing this 1 Month Notice so that they don't have to offer her compensation under a different type of Notice. The Landlord acknowledged that they are going to redevelop the property at some point but stated that it will take many years to get all the approvals, given it is a multimillion dollar project. The Landlord stated that they are looking to continue renting out the house for a few years until they get their permits in order.

The Tenant stated that all of the different agents of the Landlord (property managers, and inspectors) are making her feel insecure and unsafe. The Tenant feels the Landlord should have been more forthcoming with who was coming, so that she wouldn't feel so unsafe. The Tenant feels the Landlord was inspecting the rental unit too often, and not in accordance with the Act.

The Tenant stated that she was away in China from January 18, 2018, until February 4, 2019. The Landlord acknowledged that the Tenant was not there for all of the inspections, but she was there for more than one, and was given many warnings about the mess, and her need to clean it up. The Tenant provided photos of the rental unit now showing that she has cleaned up. These photos are timestamped April 21, 2019.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid.

The Landlord entered into written evidence a copy of the Notice. The first ground listed on the Notice is:

Tenant or a person permitted on the property by the tenant has:

- 1. significantly interfered with or unreasonably disturbed another occupant or the landlord.*

I note the Tenant has been the only person living in the house since last July 2018. I note the Landlord provided photos of the common areas of the house which were taken on July 6, 2018 (shared with around 7 other bedrooms which were un-rented after June 2018). I also note these photos have time stamps built into the file showing they were

taken on July 6, 2018. I note these photos show the common areas of the house were a little bit dirty, but that it was at a reasonable level. Over the following months, I note the Tenant continued to live in the rental unit alone, and I also note the Landlord (agent) noticed and increasing mess in the common areas. The Landlord appointed an inspection company to act as an agent for the Landlord and to assist them with this developing issue in an attempt to re-rent the remaining bedrooms in the house.

I note there were several inspections over January and February of 2019. Although the Tenant was away in China for a few days, I note she was present for the first inspection, where a conversation took place about her cleaning up the space. The Landlord gave the Tenant several opportunities to clean up, and returned to take photos and check on the progress. The photos show that the house remained very dirty and unpresentable. It also appears the kitchen was unsanitary and lacked basic hygiene. I accept the Landlord's testimony that this would have impeded their ability to show the rental unit to prospective tenants. I also accept that, given how long the mess remained, the Landlord would have suffered a loss of income from being unable to show the unit. The Landlord had agents attempting to re-rent the unit, and I find the Tenant's actions (inactions) significantly interfered with the Landlord, and his interests.

I find the Landlord's evidence (photos, written warnings, and caution notices) provide a more detailed and compelling account of what transpired than what the Tenant has stated. As such, I have placed more weight on the Landlord's version of events, including that the Tenant let the condition of the rental unit degrade to an unpresentable and unsanitary condition, which has ultimately cost the Landlord rental revenue. It is clear that the Tenant was put on notice that she would have to clean up sometime in January 2019, and after not cleaning up for nearly 2 months, the Landlord issued the Notice.

Overall, I find there is sufficient evidence to show that the Tenant has significantly interfered with the Landlord by impeding their ability to re-rent the other rooms in the house, due to an unreasonable mess that was not remedied in a timely manner. As such, I find the Landlord has sufficient cause to issue the Notice. The Tenant's application to cancel the Notice is dismissed. The tenancy is ending, under the Notice, as described below.

Given my findings on this matter, it is not necessary to consider the other grounds listed on the Notice.

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form. Although the Notice issued by the Landlord is from 2011, I find it is substantially similar to the new form, and meets the form and content requirements under the *Act*.

In summary, I find that the Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession. I find the Landlord is entitled to an order of possession effective **May 31, 2019, at 1pm** after service on the Tenant.

Since the Tenant was not successful with her application, I decline to award her recovery of the filing fee.

Conclusion

The Tenant's application to cancel the Notice is dismissed.

The Landlord is granted an order of possession effective **May 31, 2019**, at 1 pm after service on the Tenant. This order must be served on the tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 7, 2019

Residential Tenancy Branch