



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MEICOR PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "*Act*") for cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 47.

Both parties attended the hearing and had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions. The landlord acknowledged receipt of the tenant's Notice of Hearing and Application for Dispute Resolution. Neither party raised issues of service. I find the parties were served in accordance with the *Act*.

Preliminary Matter: Name Correction

The tenants testified that their application incorreccted stated the name of a person as a tenant. I herein amend the tenant's application to state to remove that individual's name from this application pursuant to section 64(3)(c) of the *Act*.

Issue(s) to be Decided

Are the tenants entitled to cancellation of the landlord's One Month Notice pursuant to section 47?

If not, is the landlord entitled to an order of possession pursuant to section 55?

Background and Evidence

The tenancy started on July 1, 2016 and the current monthly rent is \$1,173.00. The tenant paid a \$500.00 security deposit and a \$500.00 pet damage deposit.

The landlord testified that they issued the One Month Notice on May 14, 2019 and they posted the notice on the tenant's door on May 15, 2019. The tenant acknowledged finding the notice on her door on May 15, 2019. The One Month Notice had a move out date of June 30, 2019.

The stated reasons on the One Month Notice were that the "...tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord."

The landlord testified that there were multiple incidents wherein the tenants were extremely loud and disruptive to neighbouring occupants. The landlord received multiple complaints from other residents that they were disturbed by shouting, fighting and banging noises from the tenant's rental unit.

The landlord provided as evidence copies of multiple complaints of excessive noise from the tenant's rental unit. The landlord also provided copies warning letters sent from the landlord to the tenants regarding these incidents.

The tenants acknowledged their conduct and conceded that tenant M.C. was very loud in the past. However, the tenants argued that tenant M.C. has taken steps to improve her mental health and tenant M.C. stated that this will not happen again. The tenant provided copies of supportive statements from her physician and her social worker.

The landlord requested an order of possession. The landlord acknowledged that the tenant has already paid rent for July 2019 so the landlord requested an order of possession effective July 31, 2019. The tenants wanted to continue the tenancy.

Analysis

Tenants may dispute a one month notice to end tenancy for cause pursuant to section 47(4) of the *Act*. Pursuant to *Rules* 6.6, the landlord has the onus of proof to establish, on the balance of probabilities, that notice to end tenancy is valid. This means that the landlord must prove, more likely than not, that the facts stated on the notice to end tenancy are correct.

The landlord's One Month Notice stated that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Based on the uncontroverted testimony of the landlord, the corroborating complaints and warning letter, and the tenants' own admissions, I find that the landlord has provided satisfactory evidence to satisfy the onus of proving that the tenant did significantly interfere with and unreasonably disturb other occupants of the building.

Although it is undoubtedly a positive development for tenant M.C. to take steps to improve her mental health, the analysis under section 47 only relates to whether the tenants did interfere with other occupants. If it is determined, as in this matter, that the tenants did in fact interfere with other occupants, it is not relevant whether or not the conduct will likely continue in the future.

The tenants also argued that the One Month Notice violated tenant M.C.'s human rights as they claimed that this discriminated against her on basis of her disability. However, my jurisdiction in this matter is limited to residential tenancy disputes pursuant to the *Act*. Section 2 of the *Act* states that the *Act* applies to tenancy agreements, rental units and other residential property. Furthermore, section 6(1) of the *Act* states that "The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement." I find that human rights are not rights, obligations and prohibitions established under the *Act*. Accordingly, I find that human rights are not within the scope of my jurisdiction under the *Act* and I accordingly decline to make a ruling on this issue.

For the forgoing reasons, I dismiss the tenants' application to cancel the landlord's One Month Notice.

Section 55 of the *Act* requires that, when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy in compliance with the *Act*.

I find the form and content of the One Month Notice does comply with section 52 of the *Act*. Accordingly, I find the landlord is entitled to an order of possession effective at **1:00 p.m. on July 31, 2019.**

Conclusion

I find the landlord is entitled to an order of possession effective at **1:00 p.m. on July 31, 2019**. This order must be served on the tenant. If the tenants fail 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: July 09, 2019

Residential Tenancy Branch