



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC COVER PROPERTY MANAGEMENT
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an 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 April 26, 2019.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

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 evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on October, 1, 2014. Rent started at the amount of \$550.00 and payable on the first of each month. The tenant paid a security deposit of \$275.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on May 31, 2019.

The reason stated in the Notice was that the tenant or a person permitted on the property has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health and safety or lawful right of another occupant or the landlord;
- put the landlord's property at a significant risk;
- has engaged in illegal activity that has, or likely to::
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being;
 - jeopardize a lawful right or interest of another occupant or the landlord;
- permitted on the property by the tenant has caused extraordinary damages to the unit or property; and
- allowed an unreasonable number of occupants in the unit.

The landlord testified that they cannot continue the tenancy as they are continuing to loss occupants of the building due to the tenant's on going actions of disturbing other occupants, by yelling, screaming and fighting. The landlord stated that they have already had two tenants' vacate and have been given notice that others will also move if the problem is not resolved.

The landlord testified that they have also lost one cleaning lady and the current cleaning lady is threatening to quit as they feel unsafe.

The landlord testified that they have spent a lot of money installing security cameras and hired security staff, which they have also indicated that they feel threatened by the tenant's guest.

The landlord testified that the tenant's quests are overdose on the property and even the tenant has been taken by ambulance in the last six months.

The landlord testified that the occupants are feed up with constant fighting that is going on between the tenant's and their guests and unit #17.

The landlord testified that the tenant has turned the unit into a hostel by allowing transit or street people to stay in the unit and their bikes are in the stairwells and hallways.

The landlord testified that they have found a person going through the garbage bins and they were told that they were living with the tenant and that the tenant had thrown their belongings out.

The landlord testified that they are getting calls of complaints all the time from the occupants on the lower and upper floors. The landlord stated that the people that are attending the unit are not family, they are a young group of street people with a considerable age difference. The landlord stated that drugs are being used by the tenant's guest and needle and other drug paraphernal are being left in the hallway and stairwells.

The landlord testified that the police have attended on multiple occasions. The landlord stated that on one occasion the police were called because one of the tenant's guests had used crack in the stairwell with a blow torch causing great concern.

The landlord testified that the tenant's guests are constantly hollering upstairs to be let into the building. The landlord stated that the tenant or the tenant's guests are also compromising the safety of the building by leaving the door unsecure.

The landlord testified that the tenant and unit 17, are both causing considerable problems in the building and they cannot continue the tenancy. The landlord stated that the tenant was served with a warning letter on September 14, 2018; however, the problems are getting worse.

Filed in evidence are witness statements from the occupants below that the tenant who have moved out. Filed in evidence are witness statements from other occupants of the building, a letter from the security company, text messages of complaints, and photographs.

KS witness for the tenant testified that they have been by the building a couple of times and there is a homeless camp next to the building and there are bicycle around the entire premises. KS stated that their impression is that the general area is dealing with homelessness and the opioid crisis and do not believe this is associated with the tenant.

The tenant testified that they do not have anyone living in their rental unit; however, the landlord refuses to believe them. The tenant stated that every time something goes wrong they get blamed. The tenant stated they are not using drugs and believe the landlord is harassing them which have resulted in bleeding ulcers.

The tenant testified that they accidentally threw out some belongings of one of their friends as they thought it was a bag of clothing that they decided was no longer useable.

The tenant testified that no one lives directly below them and the stairwell is on the other side of their rental unit and they do not understand the complaints. The tenant stated that the security guards are really nice and they do not understand why they would feel scared, and one even helped them.

The tenant testified that one tenant did not move-out because of them it was due to health issues they were having.

The advocate argues that there is a lot of hearsay about several apartments and the witness statements should not be allowed as the witnesses are not at the hearing to provide testimony. The advocate stated that there are a lot of people in the area due to a homeless camp. The advocate stated that the buzzers to the building are broken. The advocate stated that the tenant did not get proper warning letters, just a final notice.

Analysis

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

In this case, the advocate submits that the written statements should not be considered as they did not attend to give testimony.

Rules of evidence do not apply

- 75** The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be
- (a) necessary and appropriate, and
 - (b) relevant to the dispute resolution proceeding.

In this case, I accept the writers of the witness statements were not at the hearing, I find it would be unreasonable not considered their statements. I find it necessary and appropriate and relevant to the dispute resolution proceeding as this specifically goes to issues that our occurring in the building with tenant and or their guests. Therefore, pursuant to section 75 of the Act, I am allowing the written testimony and records that were provided as evidence by the landlord.

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord;

seriously jeopardized the health and safety or lawful right of another occupant or the landlord;

In this case, I accept the evidence of the landlord and the written statement, and text messages that the tenant or their guests is unreasonably disturbing other occupants of the building by yelling, fighting, and unreasonable noise.

I also accept the evidence of the landlord that the tenant's guests are not being supervised when they attend the building and or leaving the building. This is jeopardizing the health and safety of the other occupants of the building and the landlord, as needles and drug paraphernal is found in the hallway outside the tenant's unit and in the stairwell. Even one guest of the tenant had overdosed and a torch was used to consume crack.

While I accept the evidence of the KS that the general area around the premise is general homelessness and a drug crisis, I find this only supports that the persons the tenant is allowing into the premises have addictions problems. The tenant is responsible for any guest they allow into the premise and are responsible for their guest until they leave the property.

Further, the evidence support that the landlord has lost at least two other renters in the building, due to the ongoing issues with the tenant and their guest and have also been given recent letters from other renters that they would end the tenancy if the problem with the tenant or the tenants guest is not rectified. I find the tenant or the tenant's guests are interfering with the landlord's lawful right to keep the existing renters and to provide safe housing for everyone in the building.

I find the evidence on the balance of probability and on its totality does support the Notice was issued for the reasons stated above.

I find the Notice has been proven by the landlord and is valid and enforceable. I find the tenancy legally ended on May 31, 2019. Therefore, I dismiss the tenant's application to cancel the Notice.

As the landlord has accepted occupancy rent for the month of June 2019, I find it appropriate to extend the effective vacancy date to June 30, 2019, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Since I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **June 30, 2019, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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: June 21, 2019

Residential Tenancy Branch