



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

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

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package and the submitted documentary evidence in person. Both parties confirmed the landlord served the tenants with the submitted documentary evidence via Canada Post Registered Mail. Neither party raised any service issues. I accept the undisputed testimony of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

Preliminary Issue(s)

At the outset, the tenants' application was clarified. The tenants requested an extension of time to make an application to cancel a notice to end tenancy because "I am at risk of being homeless with a toddler. I have been wrongfully accused or "partying" in my unit. I am a single mother full time, and have been sober for 2.5 years. The tenants request for more time was clarified in that this is not a request to extend the tenancy, but to request extra time to file an application for dispute. A review of the tenants' application show that the tenants have indicated that the 1 month notice was received on June 20, 2019 and the tenants' application was filed on June 27, 2019. As such, the tenants

have filed their application for dispute within the allowed 10 day time limit and the tenants request for more time is not required. The hearing proceeded on the tenants request to cancel the 1 month notice.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 1 month notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Neither party provided any tenancy details.

Both parties confirmed that on June 20, 2019, the landlord served the tenant with the 1 Month Notice dated June 20, 2019 by posting it on the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of July 31, 2019 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The details of cause listed on the notice state:

Numerous parties, disruptions and noise complaints from neighbors. Several warning letters give but disturbances continue.

In support of these claims the landlord has submitted copies of 7 letters of complaint from other tenants of the rental building and 4 notice(s)/caution letters regarding excessive noise and cautions that the tenants' tenancy was in jeopardy for the period between November 2018 and May 2019..

The tenants have confirmed that they received each of the caution letters as provided by the landlord, but that on each occasion the tenants have disputed that there was noise or excessive noise to the landlord. The landlord disputes this claim stating that on

only one occasion after the December 13, 2018 letter, the landlord received a telephone call that the noise was not excessive.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the undisputed evidence of both parties that the landlord served the tenants with the 1 month notice dated June 20, 2019 regarding multiple noise complaints. Both parties have confirmed that the landlord received numerous noise complaints from the neighbor next to and below the tenants' rental unit. Both parties confirmed that the landlord after receiving these complaint(s) issued caution letter(s) to the tenant detailing the issue and the possible consequence(s).

The tenants have argued that on each occasion, the warning letters were disputed to the landlord, in that some of the occasions there was no noise and in others the noise was not excessive.

The landlord has confirmed that on atleast one occasion a response was given by the tenant as to the level of the excessive noise. The landlord has stated that no investigations were done to ascertain the noise complaints or of the level of noise reported by the other occupants.

In this case, I find that I prefer the evidence of the landlord over that of the tenants. Although the landlord relies solely on the written complaints of the other occupants of the rental property and the tenants have argued that the noise did not occur, I find the tenants' submission in this case without any supporting evidence is self-serving. The landlord has also relied solely on the written complaints from two of the other occupants over an approximately 7 month period in conjunction with the landlord's 4 caution letters. I find that this is sufficient to satisfy me that the other occupants have suffered unreasonable disturbances. As such, the landlord has provided sufficient evidence for the reasons for cause. The tenants' application is dismissed. The 1 month notice dated June 20, 2019 is upheld.

Pursuant to section 55 of the Act, the landlord is granted an order of possession. AS the effective end of tenancy date has now passed, I order that the tenants comply with the order of possession two days after upon being served.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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: August 19, 2019

Residential Tenancy Branch