



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding GREATER VICTORIA HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's 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.

This matter was originally heard on July 5, 2019. The tenant and the landlord both appeared at the original hearing. The original hearing was adjourned.

The landlord attended this reconvened hearing. The landlord had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenant did not attend this reconvened hearing. I kept the teleconference line open for 24 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

The Residential Tenancy Branch records indicate that the Residential Tenancy Branch sent a notice of adjournment to both parties by transmitting the Notice of Dispute Resolution Proceeding notice to the email addresses provided by the parties on July 12, 2019. The landlord testified that they discussed the reconvened hearing date with the tenant's advocate, K.M., and he confirmed that he was aware of the reconvened hearing date. I find that the parties were both sufficiently served with the Notice of Dispute Resolution Proceeding pursuant to section 71(2)(c) of the *Act*.

Preliminary Matter – Non-Appearance of Tenant at the Hearing

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the applicant tenant did not attend the hearing, and in the absence of any evidence or submissions, I order the tenant's application be dismissed without leave to re-file.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to section 55 of the Act?

Background and Evidence

The landlord testified that the tenancy started on May 13, 2019.

The landlord testified that the tenant has continuously harassed another occupant in the building. Witness T.Y. testified that the tenant has repeatedly harassed and intimidated her throughout her tenancy. She testified that the tenant frequently followed her, yelled at her and physically intimidated her. Witness T.Y. testified that this conduct made her feel unsafe and worried. Building manager, C.D. testified that the surveillance videos from the building corroborated witness T.Y.'s complaints.

Witness T.Y. also testified that she was assaulted near a shopping center, outside of the rental unit. She testified that the tenant struck her and the tenant bashed her face into the pavement causing T.Y. to lose a tooth and suffer migraines.

The landlord testified that they issued the One Month Notice on May 13, 2019 and posted it on her door the same day. The One Month Notice stated a move-out date of June 30, 2019. The One Month Notice stated the following grounds for ending the tenancy:

- The tenant or a person permitted on the property by the tenant has
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.

- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Analysis

The tenant has made an application to cancel the landlord's One Month Notice and that application has been dismissed. Section 55 of the *Act* states that when a tenant's application to cancel a notice to end tenancy for cause is dismissed, I must grant the landlord an order of possession if 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*.

Furthermore, section 47(1)(d) of the *Act* permits a landlord to end a tenancy if a tenant has "significantly interfered with or unreasonably disturbed another occupant or the landlord" or the tenant has "seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant."

In analysing this matter, I have not considered the physical altercation as evidence in support of the landlord's notice to end this tenancy as this altercation did not occur at the rental unit. However, based on the uncontroverted testimony of witness T.Y., I find that the tenant has significantly interfered with and unreasonably disturbed another occupant at the rental unit.

I find that the tenant has repeatedly harassed and disturbed another occupant by yelling at her, following her, physically intimidating her and by video recording her without her consent. Furthermore, I find witness T.Y.'s testimony that the tenant's conduct makes T.Y. feel unsafe and worried as being credible. I am satisfied that the landlord has provided sufficient evidence to establish that the tenant has significantly interfered with and unreasonably disturbed another occupant.

Accordingly, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**.

Conclusion

I order the tenant's application be dismissed without leave to reapply.

I find the landlord is entitled to an order of possession effective **two days 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: September 05, 2019

Residential Tenancy Branch