



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice). Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenant confirmed that he was handed the 1 Month Notice by the landlord's representative on June 30, 2019, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord's representative (the landlord) confirmed that the tenant handed them a copy of the tenant's dispute resolution hearing package on July 15 or 16, 2019, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The tenant gave undisputed sworn testimony that they moved into a room in this single room occupancy inn on May 1, 2017. Although no written tenancy agreement is in place, the parties agreed that monthly rent is set at \$800.00, payable in advance on the

first of each month. The landlord continues to hold the tenant's \$400.00 security deposit paid when this tenancy began.

Although the effective date on the 1 Month Notice was July 31, 2019, the landlord has accepted payments from the Ministry of Social Development and Poverty Reduction (the Ministry) enabling the tenant to remain in the rental unit for August and September 2019.

In the 1 Month Notice entered into written evidence, the landlord cited the following reasons for the issuance of the Notice:

Tenant has allowed an unreasonable number of occupants in the unit/site

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;*
- *put the landlord's property at significant risk.*

Tenant has engaged in illegal activity that has, or is likely to:

- *damage the landlord's property;*
- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on November 30, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. Both parties agreed that the tenant will continue to pay rent for the remainder of the tenancy and the landlord will accept those payments for use and occupancy only and not to reinstate the tenancy.
3. The tenant agreed to provide at least 24 hours written notice to end this tenancy earlier than November 30, 2019.
4. The landlord agreed to waive the normal notice period for receiving a notice to end tenancy from the tenant to align with the provisions noted in Clause 3 of this settlement agreement. The landlord further agreed to return any portion of rent received for this tenancy directly to the tenant for periods of the month if the tenant vacates the rental premises earlier than the end of the month after having issued a 24 hour written notice to end this tenancy to the landlord in accordance with Clause 3 of this settlement agreement.
5. The landlord agreed to provide 24 hours written notice of any inspection or entry into the tenant's rental unit for the remainder of this tenancy.
6. The tenant agreed that upon receipt of any 24 hour written notice to inspect or enter the rental unit from the landlord that the tenant will either be present when this inspection occurs or will provide the landlord with authorization to enter the rental unit.
7. The tenant agreed to follow all rules established by the landlord, particularly with respect to noise after 11:00 p.m., and with respect to allowing an unreasonable number of other persons, not to exceed four, to be present in the rental unit at the same time.
8. The tenant agreed to not allow any new guests or visitors to enter the rental unit after 10:00 p.m.
9. Both parties agreed that in the event that the tenant contravenes the provisions outlined in Clause 7 of this settlement agreement with respect to noise in the rental unit and the tenant does not immediately resolve the landlord's concerns about noise that the landlord may end this tenancy within 7 days of the landlord providing the tenant with a request to vacate the rental unit, and the tenant agreed to vacate the rental unit by that time.
10. The tenant agreed to refrain from making any threats towards any of the landlord's representatives.
11. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application and the landlord's 1 Month Notice and that

they did so of their own free will and without any element of force or coercion having been applied.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue two attached Orders of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. The first of these Orders enables the landlord to end this tenancy by 1:00 p.m. on November 30, 2019. The second of these Orders is **only** to be used by the landlord in the event that the tenant fails to abide by the commitments made by the tenant in Clauses 7 and 9 of this settlement agreement with respect to noise in the rental unit and a failure to immediately resolve the landlord's concerns about noise in the rental unit. This second Order enables the landlord to obtain vacant possession of the rental unit within 7 days of the landlord having served the tenant with that Order pursuant to the 1 Month Notice issued on June 30, 2019.

The landlord is provided with these Orders in the above terms and the tenant must be served with an Order in the event that the tenant does not vacate the premises in accordance with their agreement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

To give legal effect to this settlement agreement, I order the landlord to provide the tenant with 24 hours written notice of any inspection or entry into the tenant's rental unit during the remainder of this tenancy. I also order the tenant to give the landlord authorization to allow the landlord to enter the rental unit upon receipt of the landlord's 24 hour written notice of any such inspection or entry into the tenant's rental unit.

As per the terms of their settlement agreement, I order that the tenant is allowed to provide the landlord with at least 24 hours written notice to end this tenancy in the event that the tenant is able to find alternate accommodations and end this tenancy earlier than the agreed upon date of November 30, 2019. In that event, the landlord is not allowed to make a monetary claim from the tenant for a lack of adequate notice to end this tenancy.

To give legal effect to the terms of this settlement agreement, I order the landlord to return any pro-rated amount of rent paid towards this tenancy directly to the tenant in the event that the tenant vacates the rental unit before the end of the month after having

provided the landlord with at least 24 hours written notice to vacate the premises to the landlord.

As per the terms of this settlement agreement, the tenant is ordered to abide by the rules established by the landlord, particularly with respect to noise after 11:00 p.m. The tenants is also ordered to not have more than four other persons in their rental unit at the same time. The tenant is ordered to not allow any new guests or visitors to enter the rental unit after 10:00 p.m.

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 10, 2019

Residential Tenancy Branch