



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAMPBELL RIVER HEAD INJURY SUPPORT
SOCIETY 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* ("Act") for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause, dated July 23, 2019 ("1 Month Notice"), pursuant to section 66; and
- cancellation of the landlord's 1 Month Notice, pursuant to section 47.

The tenant did not attend this hearing, which lasted approximately 49 minutes. The landlord's agent, JK ("landlord") and the landlord's lawyer attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that she was the housing and programming coordinator for the landlord company named in this application and that she had authority to speak on its behalf. The landlord confirmed that her lawyer had permission to represent the landlord company. The landlord called three witnesses, "witness VK," "witness BR" and "witness ST." All three witnesses were excluded from the outset of the hearing, recalled later for their individual testimony, and affirmed under oath.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package from the RTB directly. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

The landlord stated that she served the tenant with the landlord's evidence package on September 20, 2019, by way of registered mail. The landlord provided two Canada Post tracking numbers verbally during the hearing, stating that one package was for this hearing, and the other package was for the landlord's future hearing on November 22, 2019. The landlord confirmed that both packages were served and signed for on September 24, 2019. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's evidence package for this hearing on September 25, 2019, five days after its registered mailing.

The landlord confirmed that she had a future application for an order of possession for cause against the tenant, based on the same 1 Month Notice, on November 22, 2019 at 9:30 a.m. The file number for that hearing appears on the front page of this decision. The landlord said that she wanted an order of possession at this hearing for the tenant's application and did not want to adjourn the tenant's application to be heard at the future hearing for the landlord's application. Accordingly, I proceeded with this hearing.

The landlord testified that the tenant was served with the landlord's 1 Month Notice on July 23, 2019, by way of registered mail. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. The notice indicates an effective move-out date of August 31, 2019. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on July 28, 2019, five days after its registered mailing.

Issues to be Decided

Is the tenant entitled to more time to make an application to cancel the landlord's 1 Month Notice?

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

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord and the landlord's witnesses, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claims and my findings are set out below.

The landlord testified regarding the following facts. This month-to-month tenancy began on December 1, 2016. Monthly rent in the amount of \$612.00 is payable on the first day of each month. A security deposit of \$300.00 was paid by the tenant and the landlord continues to retain this deposit. Both parties signed a written tenancy agreement and a copy was provided for this hearing. The tenant continues to reside in the rental unit.

The landlord issued the 1 Month Notice for the following reasons:

- *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 or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:*
 - *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.*

The landlord testified that she received a letter on July 4, 2019, from a community professional who witnessed the tenant selling and dealing in illegal narcotics. She said that there have been complaints from other occupants in the rental building on February 14 and 21, 2019, and March 2 and 3, 2019, that the tenant is dealing drugs out of his rental unit. She claimed that the occupants are losing their quiet enjoyment and are being disturbed due to the frequent traffic of the tenant's guests and illegal substance dealing. She stated that one occupant is constantly being buzzed in her unit by the tenant's guests, when the tenant does not answer his own buzzer. The landlord provided letters and complaints from these occupants regarding same.

The landlord's witness VK is a support staff member employed by the landlord company. She testified that on August 15, 2019, she reviewed security camera footage from the rental building and saw two guests enter the tenant's rental unit carrying drug manufacturing equipment. She said that there was a burner stove and a giant propane tank. She claimed that she called the police, showed a police officer the footage, and the police officer was able to identify the tenant's guests as part of a drug and prostitution house nearby, known to police. She obtained a police file number for same.

The landlord's witness BR confirmed that he is a social worker and clinician case manager dealing with mental health and substance use issues, employed by a third-party company. He said that he approached the landlord because of his concerns about the tenant. He testified that he saw the tenant selling drugs outside a methadone clinic and soup kitchen, as well as in front of the rental building. He said that he wrote a letter, dated July 14, 2019, to the landlord, regarding same. He stated that he is assisting a woman with psychosis, living in the same rental building as the tenant, who told him that she has asked the tenant to buy her cigarettes, she has given the tenant her bank card, and the tenant has stolen her money in the amounts of \$300.00 to \$400.00, from August to September 2019. Witness BR said that he is concerned about the welfare of these vulnerable people in the rental building, as he helps a few people.

The landlord's witness ST testified that she is the landlord's apartment manager and a resident in the rental building. She claimed that over the last year, she has received multiple complaints from other occupants in the rental building, that they have seen the tenant dealing drugs and his guests "shooting up drugs" in the stairwell at the building. She said that these occupants are concerned for their safety and fear the tenant retaliating against them, so they complained to witness ST, rather than the landlord directly. Witness ST explained that she has two small children of her own and she will not allow them to go or play anywhere alone in or around the rental building because she is concerned for their safety, due to the tenant's behaviour.

Analysis

According to subsection 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. The tenant was deemed to have received the 1 Month Notice on July 28, 2019 and filed his application to dispute it on August 6, 2019. Therefore, the tenant is within the time limit under the *Act*. Accordingly, the tenant does not require additional time to make an application to cancel the 1 Month Notice. The tenant did not appear at this hearing to present his submissions. The burden shifts to the landlord to prove the reasons on the 1 Month Notice.

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for valid reasons. I find that the tenant and his guests significantly interfered with and unreasonably disturbed the landlord and other occupants in the rental building and caused serious jeopardy to the health, safety and lawful rights of the landlord and other occupants.

I accept the undisputed testimony of the landlord and the landlord's three witnesses that the tenant brought in drug manufacturing equipment into the rental building, which was captured on video surveillance and reviewed by the landlord's staff and police. I accept that the tenant was seen by multiple witnesses dealing in illegal drugs at the rental building and taking monies without permission from another occupant. I accept that the tenant had multiple complaints from other occupants of allowing guests at the rental property who use and deal in illegal drugs. I accept the letters and complaints provided by the landlord, regarding the above issues.

Section 55(1) of the *Act* reads as follows:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Accordingly, I dismiss the tenant's application to cancel the landlord's 1 Month Notice, without leave to reapply. I find that the landlord's 1 Month Notice, dated July 23, 2019, complies with section 52 of the *Act*.

I issue an order of possession to the landlord against the tenant, effective at 1:00 p.m. on November 30, 2019. The landlord specifically asked for this date during the hearing, in order to allow the tenant additional time to find a new unit, due to his brain injury. During the hearing, the landlord confirmed that the tenant paid rent for October 2019.

Conclusion

The tenant's application for more time to cancel the landlord's 1 Month Notice, is not required.

The tenant's application to cancel the landlord's 1 Month Notice, dated July 23, 2019, is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective at 1:00 p.m. on November 30, 2019. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: October 07, 2019

Residential Tenancy Branch