



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANGLEY LIONS HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Code CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on September 30, 2019 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated September 25, 2019 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing and was accompanied by L.L.H., an advocate. The Landlord was represented at the hearing by J.D. and D.L., agents. The Tenant, J.D. and D.L. provided affirmed testimony.

The Tenant testified the Notice of Dispute Resolution Proceeding package was served on the Landlord by registered mail. J.D. acknowledged receipt on behalf of the Landlord. In addition, J.D. testified the documentary evidence to be relied upon was served on the Tenant by in person. L.L.H. acknowledged receipt of behalf of the Tenant. No issues were raised with respect to service or receipt of these documents during the hearing. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Tenant entitled to an order cancelling the One Month Notice?

Background and Evidence

The Landlord wishes to end the tenancy. Accordingly, the Landlord issued the One Month Notice, which was served on the Tenant in person on September 25, 2019. The Application. The Application confirms receipt of the One Month Notice on that date. The One Month Notice was issued on the following bases:

- Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.
- Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk.
- Tenant has not done required repairs of damage to the unit/site.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Specifically, J.D. testified that the condition of the Tenant's rental unit has deteriorated over the course of the tenancy but particularly over the last several years. J.D. testified that recent condition inspections have found the Tenant's rental unit to be extremely cluttered and dirty. She described fruit flies, pop bottles on the floor and under the Tenant's bed and rotting food. J.D. also advised there are fruit flies in the Tenant's rental unit and that there is feces on the floor. J.D. testified the fridge was so full of fruit flies and rotting food that it has been disposed of.

J.D. testified the Tenant has been asked to clean her rental unit but that the Tenant refuses to do so. Although an acquaintance of the Tenant spent 5 hours cleaning the Tenant's bathroom and agents of the Landlord spent 8-1/2 hours cleaning the rental unit in October 2019, it has returned to its previous condition. J.D. testified the Tenant refused to help clean. Further, J.D. described her experience with cleaning the Tenant's rental unit as "mucking it out". J.D. also advised that a community support group has refused to enter the rental unit due to the condition. J.D. advised the Tenant refuses to clean the rental unit, seek help, or seek the proper supports. The Tenant has also prevented access to the rental unit by the Landlord's agents.

In support, the Landlord submitted photographs of the interior of the rental unit. The photographs depict a cluttered, dirty unit as described in the testimony of J.D. In addition, J.D. referenced a letter from the Tenant's doctor that was provided to the Landlord by the Tenant. The letter indicates the Tenant is unable to complete activities of daily living. This was not disputed by the Tenant.

In reply, L.L.H. made submissions on behalf of the Tenant. He acknowledged the rental unit is "a bit of a mess". However, he suggested it is not the Landlord's role to dictate how the Tenant lives. L.L.H. also indicated there is non evidence of the condition of the fridge, or of any health risk. Although not raised in the testimony, L.L.H. also submitted there is no evidence of bedbugs or cockroaches.

The Tenant testified there is no feces on the floor and stated she has been "very ill" recently. The Tenant testified she is willing to work on cleaning the rental unit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to take steps to end a tenancy for the reasons described therein. In this case, the One Month Notice was issued on the basis identified above.

In this case, I find the Tenant has seriously jeopardized the health or safety or lawful right of the Landlord and has put the Landlord's property at significant risk. Specifically, I accept the testimony of J.D. with respect to the presence of rotting food, fruit flies, and clutter. In light of the Tenant's acknowledged health concerns, I also find it is more likely than not that there is feces on the floor of the rental unit. In addition, I accept that the fridge had to be disposed of due to the condition of the rental unit. Accordingly, I find that the Application is dismissed, without leave to reapply.

When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the One Month Notice, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Application is dismissed, without leave to reapply.

By operation of section 55 of the *Act*, I grant the Landlord an order of possession. The order will be effective two (2) days after service on the Tenant. The order may be filed in 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: November 7, 2019

Residential Tenancy Branch