



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNC OLC FF

Introduction

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

- cancellation of a One Month Notice to End Tenancy For Cause, pursuant to section 47 (the One Month Notice);
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence on file.

The tenant's application was filed within the time period required under the Act.

Issues

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Should the landlord be ordered to comply with the Act?

Is the tenant entitled to reimbursement of filing fee?

Background and Evidence

While I have turned my mind to all of the documentary evidence and the testimony of the parties, only the relevant details of their respective submissions and arguments are reproduced here.

The tenancy began April 2013. The rental unit is a one bedroom apartment in a 17 unit three storey building.

The landlord served the tenant with a One Month Notice on October 30, 2019 with an effective date of December 5, 2019. The One Month Notice was issued on the following grounds:

- tenant or a person allowed on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and put the landlord's property at significant risk; and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- tenant engaged in illegal activity that adversely affected the quiet enjoyment, security or physical well-being of another occupant;

The landlord submits that over the past year she has had numerous noise complaints from the other occupants in the building against the tenant. The landlord submits that more concerning is the tenant's recent actions of harassing the other occupants whom he believes are filing complaints against him. The landlord testified that on September 6, 2019 the tenant through water on another occupant in a unit below his. A witness statement from another occupant was submitted. The landlord testified that subsequently on September 23, 2019, the tenant was kicking the door of another occupant and on November 4, 2019 the tenant left a black rose on this occupant's doorstep. The landlord submits the tenant also set up a recording device in the common area so he could determine who was filing complaints against him. The landlord also submitted a copy of a letter the tenant wrote to another occupant questioning why that occupant was making false accusations against him. The bottom of the letter states as follows:

"Because I can't even sneeze without you phoning the police on me in the middle of the day. I am now letting you know that I have taken up tap dancing and I am having an instructor come by here three times a week to teach me between the hours of 4 p.m. and 10:55 p.m. Thank you in advance for your understanding."

The tenant's advocate submits the landlord has not submitted any evidence of illegal activity. The tenant's advocate submits that the accusations by the landlord of significant interference are not true and even if they were true are not sufficient to justify and end to the tenancy. The tenant's advocate submits its just a disagreement between two neighbors that the landlord has failed to resolve.

The tenant testified that he did not leave a rose at the doorstep of another occupant and states he was at work at the time. The tenant acknowledged knocking on the door of another occupant but states that this was in frustration of the tenant making a fake 911 call to the police in regard to suspicious activity. The tenant testified that he just knocked three times on the other occupant's door but did not kick the door as alleged. The tenant testified that a water glass was accidentally knocked over by him from above as he was carrying his laundry. He said he observed another occupant and stopped to ask her "what she was gawking at". He accidentally kicked over the glass that was on the floor. He submits there was barely any water in the glass.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

I accept the landlord's testimony and evidence to be credible and find that the tenant has been unreasonably disturbing other occupants of the building. I do not find the tenant's testimony credible that he accidentally knocked over a glass of water. The tenant's own testimony was that he stopped to ask what this other occupant was "gawking at". I find it more likely than not the version of the incident as put forth by the landlord and the witness statement to be more credible than that of the tenants. I find the tenant purposely attempted to pour water on another occupant. Regardless of the amount of water, this behaviour is unacceptable. I also find the tenant also banged on another occupant's door out of frustration. The tenant acknowledged knocking on the door as he walked by which itself served no purpose other than to attempt to intimidate this other occupant. Based on the circumstances, I find it more likely than not that it was the tenant that left a black rose on the doorstep of the other occupant. I also find the tenant's actions of installing a recording device to be inappropriate and in violation of the privacy of other occupants in the building. I also find that the statements made by the tenant in regards to "tap dancing" in his letter written to the other occupant to be a veiled threat to purposely make noise to disturb the occupant.

I find that the landlord has provided sufficient evidence to justify that it had cause to issue the One Month Notice on the ground that the tenant has unreasonably disturbed another occupant of the rental property. The tenant's application to cancel the One Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

As the tenancy has ended, I make no orders for the landlord to comply with the Act and the remainder of the tenant's application including the request for the filing fee is dismissed without leave to reapply.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) 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: January 07, 2020

Residential Tenancy Branch