



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant, in which the Tenant applied to cancel a One Month Notice to End Tenancy for Cause.

The female Agent for the Landlord stated that the Tenant's Dispute Resolution Package was received from the Tenant, by registered mail, on December 03, 2019.

This hearing was scheduled to proceed at 9:30 a.m. on January 17, 2020. The hearing proceeded at the scheduled start time in the absence of the Tenant. By the time the teleconference was terminated at 10:15 a.m., the Tenant had not appeared at the hearing.

In January of 2020 the Landlord evidence to the Residential Tenancy Branch. The male Agent for the Landlord stated that this evidence was personally served to the Tenant on January 09, 2020. On the basis of this undisputed testimony, I find that this evidence was served to the Tenant and it was accepted as evidence for these proceedings.

The parties in attendance at the hearing were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party present at the hearing (with the exception of legal counsel) affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Issue(s) to be Decided:

Should the One Month Notice to End Tenancy for Cause be set aside?

Preliminary Matter

Legal Counsel for the Landlord stated that this tenancy is the subject of other Dispute Resolution Proceedings.

The Landlord was advised at the hearing that the other proceedings would proceed at the time/date that has been scheduled for those matters.

The Landlord was advised at the hearing that the Landlord has the right to withdraw all, or a portion of, an Application for Dispute Resolution the Landlord has filed if, in the Landlord's opinion, an issue in dispute in the future proceeding has been adequately addressed by this decision.

The Landlord is hereby advised that the Landlord does not have the right to withdraw an Application for Dispute Resolution filed by the Tenant. In the event the Tenant proceeds with an Application for Dispute Resolution filed by the Tenant, the Landlord would be well advised to inform the Arbitrator at that hearing that an Order of Possession has been granted as a result of these proceedings, as the Order of Possession may be relevant to the Arbitrator's decision in that matter.

Background and Evidence:

The male Agent for the Landlord stated that:

- The tenancy began in December of 2016;
- Rent is due by the first day of each month;
- On November 25, 2019 he personally served the Tenant with a One Month Notice to End Tenancy for Cause, which was dated November 24, 2019;
- The One Month Notice to End Tenancy for Cause, dated November 24, 2019, declared that the Tenant must vacate the rental unit by January 01, 2020;
- The One Month Notice to End Tenancy for Cause, dated November 24, 2019, declared that the tenancy was ending because the Tenant, or a person permitted on the property by the Tenant, has put the Landlord's property at significant risk;
- On December 21, 2019 a One Month Notice to End Tenancy for Cause, which was dated December 18, 2019; was posted on the door of the rental unit;
- The One Month Notice to End Tenancy for Cause, dated December 18, 2019, declared that the Tenant must vacate the rental unit by January 31, 2020;
- The One Month Notice to End Tenancy for Cause, dated December 18, 2019, declared that the tenancy was ending for several reasons, including that the Tenant, or a person permitted on the property by the Tenant, has put the Landlord's property at significant risk;
- On September 29, 2019 the Landlord became aware that the Tenant had erected a deck on the residential property and installed a hot tub on that deck;

- The Tenant did not request permission to build the deck or install the hot tub;
- In April of 2019 the Tenant was specifically told that he could not make any changes to the residential property;
- On October 02, 2019 the Landlord told him to remove the deck and hot tub;
- The Tenant agreed to remove it but by the time the first One Month Notice to End Tenancy for Cause was served; the deck and hot tub had not been removed;
- He is an electrical engineer;
- He believes the hot tub is not properly wired, in part, because it is plugged into an electrical outlet designed for a dryer, which does not meet safety codes for the hot tub;
- He believes the hot tub is not properly wired, in part, because the electrical cord enters the house through a vent;
- He believes the hot tub is a potential fire hazard, as it was not properly wired;
- Local bylaws require a permit for installing a hot tub, which the Tenant did not obtain;
- The Tenant is charging an electric vehicle by running a 50 foot extension cord between the charger and an exterior outlet on the residential complex;
- The charge for the vehicle requires a dedicated electrical outlet;
- The electrical outlet on the exterior of the rental unit is not a circuit solely dedicated to the car charger;
- The car charger is not intended to be used with an extension cord;
- He has told the Tenant on several occasions that the aforementioned method of charging the vehicle is unsafe;
- The Tenant continues to charge the vehicle in the aforementioned manner; and
- He believes the method of charging the vehicle is unsafe, due to the potential for an electrical shock or a fire.

Copies of both of the aforementioned One Month Notices to End Tenancy for Cause were submitted in evidence.

Analysis:

On the basis of the undisputed testimony, I find that on November 25, 2019 the Tenant was personally served with a One Month Notice to End Tenancy for Cause, dated November 24, 2019, and that a One Month Notice to End Tenancy for Cause, dated December 18, 2020, was posted on the door of the rental unit on December 21, 2019.

As the Tenant filed this Application for Dispute Resolution prior to December 18, 2019, I find it reasonable to conclude that the Tenant's application is to cancel the One Month Notice to End Tenancy for Cause, dated November 24, 2019. This decision will, therefore, be limited to determining whether the first One Month Notice to End Tenancy for Cause should be set aside.

Section 47(1)(d)(iii) of the *Act* authorizes a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk. On the basis of the undisputed evidence, I find that on November 24, 2019 the Landlord gave the Tenant proper notice to end this tenancy, pursuant to section 47(1)(d)(iii) of the *Act*.

I find that installing a hot tub that has not been properly wired places the Landlord's property at significant risk. On the basis of the undisputed testimony of the male Agent for the Landlord, I find that the hot tub is a fire hazard, as it was not wired properly.

I find that using a vehicle charger in a manner that does not comply with industry standards also places the Landlord's property at significant risk. On the basis of the undisputed testimony of the male Agent for the Landlord, I find that the vehicle charge is being used with an extension cord, which is not plugged into an electrical outlet that is attached to a dedicated circuit, as is required for safety reasons. On the basis of the undisputed testimony of the Agent for the Landlord, I find that the manner in which the vehicle is being charged places the residential property, and people occupying the residence, at significant risk.

In adjudicating this matter, I have placed significant weight on the testimony of the male Agent for the Landlord. As he identified himself as an electrical engineer, and there is no evidence to refute that submission, I find that he is an electrical engineer and, as such, would have knowledge of electrical safety.

In adjudicating this matter, I was influenced, to some degree, by the undisputed testimony that the Tenant has been told on several occasions that he should not charge his vehicle in the manner it is being charged and that, in spite of those warnings, he continues to charge the vehicle in that manner.

In adjudicating this matter, I was influenced, to some degree, by the undisputed testimony that the Tenant had been told to remove the hot tub on several occasions and that he had not done so by the time the One Month Notice to End Tenancy for Cause, dated November 24, 2019, was served to him.

As I have concluded that the Landlord has grounds to end this tenancy pursuant to section 47(1)(d)(iii) of the *Act*, I dismiss the Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated November 24, 2019.

Section 55(1) of the *Act* stipulates that 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 the landlord's notice to end tenancy complies with section 52 of the *Act* and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As the application to set aside the One Month Notice to End Tenancy for Cause, dated November 24, 2019, has been dismissed and that Notice to End Tenancy complies with section 52 of the *Act*, I grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on January 31, 2020. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and 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: January 17, 2020

Residential Tenancy Branch