



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 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);

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?

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 approximately 9-10 years ago. The rental unit is a basement suite of a house. The upstairs portion is occupied by other tenants of the landlord.

The landlord served the tenant with a One Month Notice on October 31, 2019 with an effective date of November 30, 2019. The One Month Notice was issued on the following grounds:

- tenant has allowed an unreasonable number of occupants;
- 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;
- tenant has assigned or sublet the unit without landlord's written consent

The landlord submitted pictures of the exterior of the rental unit depicting garbage, old furniture and numerous vehicles on the property. The landlord also submitted a copy of a by-law warning notice issued on August 23, 2019 for unsightly premises. The warning notice indicates that the by-law officer attended on August 15, 2019 and observed an unsightly premise. The by-law officer re-attended on August 22, 2019 and observed that rubbish remained but had just been moved around the property. The landlord also submitted copies of a by-law noise infraction warning issued on October 6, 2019 and a subsequent fine issued for an incident on October 19, 2019.

The landlord testified the tenant recently got a new roommate who is apparently a mechanic and he has brought a lot of old vehicles onto the property to work on. The landlord testified that he asked the tenant to remove any vehicles that do not belong to him and for proof of ownership, but the tenant has neither provided proof or removed the vehicles.

The landlord testified that he removed plywood off a RV shed so the tenant would not store junk in the shed. The landlord testified that he paid for the removal of the plywood but also removed a lot of garbage from the property as well. The landlord testified that garbage has again piled up after removal. The landlord testified that he gave the tenant a copy of the unsightly premise by-law warning notice and also discussed the issue with him.

The tenant testified that the garbage consisted of wood from the side of the shed which the landlord took apart and furniture which belonged to his old roommate. The tenant testified that his former roommate passed away in July. He acknowledged that the landlord talked to him about the garbage and even helped him dispose of it. The tenant testified the old roommate was a hoarder and there has been no issue since it was all cleaned up.

The tenant testified that there are only two cars parked on the property one of which belongs to the former roommate. The tenant testified that the landlord knows about his new roommate and that he does not do any mechanical work. The tenant testified that on the date the landlord took the picture, he had a couple guests over and two of the vehicles belonged to the upstairs tenants.

Regarding the noise infractions, the tenant testified that on the first incident he had some friends over but there was some random girl parked out on the street with loud music coming from her vehicle and she was having some sort of breakdown. He did not know the person, but the ticket got issued to the property because he went out to check what was going on. He does not know why the second infraction was issued as he was the only one home at the time. The tenant testified that there was some banging coming from the alley and the by-law department told them they are entitled to give the infraction to the closest house.

In reply, the landlord testified that the excessive cars have been parked at the property since the new roommate moved in. The landlord testified that its not just two cars and even now all the cars are still there.

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 was responsible for the unsightly premise warning notice and the two noise infractions issued by the city by-law department. The tenant's testimony that he was not responsible for the noise infractions is not credible. I find it unlikely that the city would issue a warning notice and subsequent fine just based upon noise coming from someone close to the property. The tenant acknowledged that he had people over for the first infraction and I find it more likely than not that the noise infractions were issued as a result of noise coming directly from the rental unit. The tenant's argument that it was his roommate who was responsible for the unsightly premise is also without merit as ultimately that is his responsibility as the tenant. I also accept the landlord's testimony and evidence that there are numerous vehicles being stored on the property.

I do not find the tenant's testimony credible that this was only a one day occurrence partly due to him having people over.

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 or persons permitted 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. 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.

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 06, 2020

Residential Tenancy Branch