



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VICTORIA COOL AID
SOCIETY and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes

CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and the submitted documentary evidence in person. Both parties also confirmed the landlord served the tenant with their submitted documentary evidence via XpressPost with a signature requirement on May 6, 2020. Neither party raised any service issues. I accept the undisputed affirmed testimony of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on May 14, 2018 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated February 9, 2018. The monthly rent is \$320.00 payable on the 1st day of each month. A security deposit of \$375.00 was paid.

Both parties confirmed that on March 4, 2020, the landlord served the tenant with the 1 Month Notice dated March 3, 2020 in person. The 1 Month Notice sets out an effective end of tenancy date of April 30, 2020 and that it was being given as:

- the tenant or 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.

The details of cause listed are:

The tenant has a constant stream of guests to and from his unit. This constant is very disturbing to other tenants. The Landlord has issued several verbal and written warnings to the tenant but the tenant has not rectified the issue.

Many of the tenants guest are IV drug users and after visiting the tenant they then use their IV drugs in the hallways and stairwells which is frightening to others trying to leave or access their homes.

The landlord stated that the tenant and his guest(s) have had a significant negative impact to other occupants and the staff.

The landlord stated that the tenant signed a tenancy agreement dated February 9, 2018 which contains section 23. Conduct which states in part,

The tenant agrees that if any occupant or guest causes unreasonable and/or excessive noise or disturbances the landlord may end the tenancy. This includes activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord also stated that the tenant signed a "Supportive Housing Safety Agreement" dated February 9, 2018 which states in part,

I will take full responsibility for any of my guests as their actions may affect other tenants or staff.

I will limit the number of guests in my apartment between 7:00am-11:00pm to two people.

I will accompany my guests(s) at all times while they are within premises...

The landlord stated that prior to the 1 month notice dated March 3, 2020 being issued, the tenant was given many verbal and written warnings. The landlord stated that three written caution letters were served to the tenant.

November 14, 2019

July 9, 2019

March 11, 2019

During the hearing the tenant confirmed that the tenant did receive the landlord's verbal and written notices. The tenant stated that the verbal warnings began 8 months after his tenancy began near the end of 2018. The tenant stated that he did understand that he was putting his tenancy in jeopardy by continuing to allow numerous guest(s) into the building despite being given warnings. However, the tenant stated he did comply with the verbal and written notices, but that it took him some time to accomplish this. The tenant stated that he no longer provides harm reduction equipment to guest(s) as of May 1, 2020.

The landlord argued that since the 1 month notice dated March 3, 2020 was issued the tenant continues to allow numerous guest(s) in the unit. The landlord referred to staff information log(s):

Dated March 5, 2020	W. must have had at least 40 guests in and out today...
March 11, 2020	W. guest was seen propping the East exit door open Staff dislodge it and told him that he's forbidden to do that again.
March 6, 2020	W. had another visitor ignore the no guest policy.
March 6, 2020	W. buzzed in another guest in despite staff asking if he would ask W. to come down.
March 6, 2020	Another person buzzed into W.'s Staff told the woman that it is potential dangerous to go to W. as he doesn't practice social distancing...
March 6, 2020	Another person buzzed into W's.
March 6, 2020	1 female guest entered with W. D. and writer reminded W. of no guest policy. Woman argued and went up.
March 9, 2020	W. is still buzzing guests in and one with bikes with no regard.
March 16, 2020	W. continues to buzz guest in all day.

The landlord also argued that the tenant could have distributed his Harm Reduction equipment outside of the building which would not have impacted his tenancy. The landlord further stated that the tenant has chosen to ignore the warnings.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, I accept the undisputed affirmed evidence of both parties that the landlord served the tenant with the 1 month notice dated March 3, 2020. Both parties confirmed that the issues began within the first year of tenancy. Both parties confirmed that the tenant allows guest(s) to his rental unit and provides Harm Reduction Equipment to allow his guests to safely use IV Drugs. Both parties confirmed that the landlord provided both verbal and written notice(s) cautioning the tenant to stop allowing his guests into the rental building without proper supervision as per the agreed upon tenancy agreement and Supportive Housing Safety Agreement. Both parties confirmed that the landlord notified the tenant that his guests were negatively impacting the quiet enjoyment of other occupant and the landlord. The tenant confirmed that he understood that he was placing his tenancy at risk for not complying. Despite this the tenant stated that he thought it was his right to offer these services to his guests despite the warnings at that time.

The tenant confirmed his understanding of the reasons for the 1 month notice dated March 3, 2020 but argued that he is now in compliance with the notice. The tenant stated that since being served with the notice he has stopped inviting guests in, but that it has taken some time for his guests to stop coming to him. The tenant stated that he is no longer inviting guests in to obtain his Harm Reduction Equipment. The landlord has disputed this claim stating that based upon staff log notes and occupant complaints the tenant continues to provide the Harm Reduction Equipment since the 1 month notice was issued. A review of the landlord's log notes evidence show that within 2 days after the tenant received the notice the landlord's staff recorded approximately 40 persons coming and going to the tenant's rental unit in one day. The log notes also show that the tenant continues to invite guests in as late as March 16, 2020 despite the tenant's claims that he is no longer inviting guests into the building during the state of emergency as he is noted as "buzzing" them in. The tenant also confirmed during the hearing that he was aware of and in compliance with the landlord's no guest policy during this pandemic. As such, I find on a balance of probabilities based upon the landlord's evidence that the reasons for cause on the 1 month notice dated March 3,

2020 are justified. The landlord has provide sufficient evidence despite the tenant's dispute that the tenant has and continues to invite guests into the rental building despite being cautioned that his guests are negatively impacting the other occupants and the landlord. The tenant's application to cancel the 1 month notice is dismissed. The landlord is granted an order of possession to be effective 2 days after it is served upon the tenant.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the order may be filed in 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: May 25, 2020

Residential Tenancy Branch