



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brown Bros. Agencies Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the "Act") for cancellation of a 1 Month Notice to End Tenancy for Cause.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent (the "landlord").

As both parties were present service was confirmed. The parties each testified that they were in receipt of the materials and based on the testimonies I find each party served with the respective materials in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the name of the corporate respondent was corrected as there was an error in how they were identified.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

This periodic tenancy began on February 1, 2020. The rental unit is a suite in a multi-unit building. The landlord served the tenant with a 1 Month Notice to End Tenancy for Cause dated March 17, 2020. The reasons provided on the notice for the tenancy to end is that :

Tenant or a 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;*
- *put the landlord's property at significant risk.*

Tenant has engaged in illegal activity that has, or is likely to:

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

The tenant filed an application to dispute that notice on March 24, 2020 and there was a dispute resolution hearing scheduled for May 19, 2020.

Prior to the date of the first hearing the parties entered into a Mutual Agreement to End Tenancy dated May 13, 2020. The agreement was drafted by the tenant's advocate on the tenant's instructions and provides that the tenancy end on May 31, 2020.

The tenant did not vacate the property in accordance with their agreement and continues to occupy the rental unit. The tenant submits that they misunderstood the terms of the agreement they had their advocate prepare on their behalf. The tenant testified that they believed that the Mutual Agreement to End Tenancy would allow them to simply cancel the 1 Month Notice of March 17, 2020 and allow them to reside in the rental unit indefinitely.

The landlord issued a second 1 Month Notice dated June 30, 2020 providing that the reason for this notice is that

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*

The landlord testified that the tenant continues to behave in an erratic manner with outbursts, abusive shouting and quarreling with others that disrupts the lives of the other occupants of the building. The landlord also submits that as the parties entered into a valid Mutual Agreement to End the Tenancy the tenancy has ended.

The tenant and their witnesses gave some testimony regarding the tenant's medical history and condition.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the matter at hand the landlord must demonstrate that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord.

Considered in its totality, I find the evidence presented by the landlord to credibly show that the tenant has significantly disturbed and unreasonably interfered with the other occupants of the rental building. I accept the landlord's evidence by way of testimony that there have been multiple complaints regarding the tenant arising from a series of incidents and interactions.

I do not find the tenant's submissions regarding their medical condition to be sufficient explanation or excuse for the incidents cited. I do not find that a medical condition gives rise to the right of a tenant to act in a manner that disturbs and interferes with other occupants or the landlord.

I further note that the parties entered into a valid Mutual Agreement to End Tenancy wherein the tenant agreed to provide vacant possession of the rental suite by May 31, 2020. The tenant failed to abide by the terms of the agreement. Despite the fact that the Mutual Agreement was drafted on the tenant's behalf by their advocate, the fact that the tenant confirmed that they understood the terms and the document being titled "Agreement to End Tenancy" the tenant submits that they believed the agreement reinstated the tenancy and allowed them to reside in the rental unit indefinitely. I do not find the tenant's submissions to be at all believable or consistent with the documentary evidence. I find that the tenant's present submissions demonstrates their inclination to disregard agreements when they are inconvenient to their position.

I find that the landlord has sufficiently shown on a balance of probabilities that the tenant has engaged in actions that have disturbed the other occupants and adversely affected their quiet enjoyment. Accordingly, I find that the landlord has shown on a balance that there is cause to end this tenancy and dismiss the tenant's application.

Section 55(1) of the *Act* reads as follows:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. The notice clearly provides the reasons for ending the tenancy.

As I have dismissed the tenant's application to dispute the 1 Month Notice, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue a 2 day Order of Possession

Conclusion

The tenants' application is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or any occupant on the premises 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: August 17, 2020

Residential Tenancy Branch