



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNC, OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on August 5, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a One Month Notice for Cause;
- an order to cancel a 10 Day Notice to End Tenancy for unpaid rent or utilities; and
- an order that the Landlord comply with the Act, tenancy agreement, or regulations.

The Tenant and the Landlord attended the hearing at the appointed date and time of the hearing. At the beginning of the hearing, the parties acknowledged receipt of their respective application packages and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

Preliminary Matters

At the start of the hearing, the Tenant clarified that his Application was submitted in relation to disputing a One Month Notice to End Tenancy. The Tenant elected to withdraw the other claims which were included in his Application.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice to End Tenancy for Cause dated July 24, 2020 (the “One Month Notice”), pursuant to Section 47 of the *Act*?
2. If the Tenant is not successful in cancelling the One Month Notice, is the Landlord entitled to an Order of Possession, pursuant to Section 55 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on February 1, 2005. Currently, the Tenant is required to pay rent in the amount of \$348.00 to the Landlord on the first day of each month. The Tenant was not required to pay a deposit. The Tenant continues to occupy the rental unit.

The Landlord stated that the Tenant has been provided with several written caution notices regarding the large number of guests that the Tenant has attending the rental unit on a regular basis. The Landlord stated that between the time that the Tenant received his first written caution notice on April 17, 2020, the Tenant allowed entry to 411 guests before the Landlord served the Tenant with the One Month Notice on July 24, 2020. The Landlord stated that the number of guests that the Tenant allowed entry to have jeopardized the health of many of the elderly occupants who reside at the rental property due to the Covid-19 pandemic. The Landlord provided the buzzer activity log in support.

The Landlord also stated that the Tenant and his guests have been loud, threatening to other occupants, often intoxicated, and suspected of using and distributing illicit substances. The Landlord stated that he has received 8 different complaints from other occupants about the Tenant and his guests. One of the complaints received refers to an

incident in which the Tenant swung a baseball bat at another occupant. The Landlord submitted the written complaints in support.

For the above mentioned reasons, the Landlord stated he served the Tenant with the One Month Notice on July 24, 2020 with an effective vacancy date of August 31, 2020 by Registered Mail and also through the Tenant's mail slot. The Landlord's reasons for ending the tenancy on the One Month Notice are;

"The Tenant has allowed an unreasonable amount of occupants in the unit"

"The 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 and safety or lawful right of another occupant or the Landlord, and put the Landlord's property at significant risk."

"The Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to; damage the Landlord's property, adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant, and jeopardized the lawful right or interest of another occupant or the Landlord."

The Tenant responded by stating that he has poor health, therefore, he has people conducting errands from him on a regular basis, which is why he has had so many guests attending his residence. The Tenant also indicated that he is not the one that allows entry to many of the individuals who are causing issues at the rental property. The Tenant stated acknowledged that he consumes alcohol but stated that he keeps to himself and does not disturb the other occupants. The Tenant denies making noise, threats, or assaulting another occupant.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant the One Month Notice to End Tenancy for Cause on July 24, 2020 with an effective vacancy date of August 31, 2020 by registered mail and

by placing it in the Tenant's mail slot. Pursuant to Section 88 and 90 of the *Act*, the Tenant is deemed to have received the One Month Notice on July 27, 2020.

In this case, I find that the Landlord has provided sufficient evidence to demonstrate that the Tenant has allowed a large number of guests into the rental building. I accept that the Landlord has received a number of complaints from other occupants who have expressed their concerns regarding the Tenant and his guests being loud, threatening to other occupants, often intoxicated, and suspected of using and distributing illicit substances. Furthermore, I accept that the Tenant was engaged in an incident in which he swung a baseball bat at another resident at the rental property. While the Tenant denied the details of Cause during the hearing, I find that the Tenant has provided insufficient evidence to support his claims.

In light of the above, I dismiss the Tenant's Application to cancel the One Month Notice dated July 24, 2020.

Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

I find that the One Month Notice complies with the requirements for form and content. I further find the Landlord has provided sufficient evidence to demonstrate that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

As the effective date of the One Month Notice has passed and the Landlord stated that the Tenant has paid rent for September 2020, I find that the Landlord is entitled to an order of possession effective at 1:00 PM on September 30, 2020, after service on the Tenant, pursuant to section 55 of the *Act*. This order should be served onto the Tenant as soon as possible.

Conclusion

The Tenant Application to cancel the One Month Notice dated July 24, 2020 is dismissed without leave to reapply

The Landlord is granted an order of possession, which will be effective at 1:00 PM on September 30, 2020 after service on the Tenant. If the Tenant fails to comply with the order of possession it may be filed in 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: September 16, 2020

Residential Tenancy Branch