



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing was held based on the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) to cancel a 1 Month Notice to End Tenancy for Cause dated July 31, 2020 (1 Month Notice).

The tenant, an advocate for the tenant DA (advocate), a tenant agent BJ (agent), and two agents for the corporate landlord DD and LC (agents) attended the teleconference hearing. The hearing process was explained to the parties, evidence was reviewed, and the parties were provided with an opportunity to ask questions about the hearing process. The parties were provided with the opportunity to submit documentary evidence prior to this hearing. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the parties confirmed receipt of all documentary and digital evidence and that they had the ability to review all evidence, I find the parties were served in accordance with the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

Firstly, I have amended the tenant's application to include the name of the corporate landlord. I have left the agent for the landlord as agent. This amendment was made pursuant to section 64(3)(c) of the Act. I disagree with the applicant and/or advocate that the service address not matching the corporate landlord address invalidates the 1 Month Notice as an agent may issue a 1 Month Notice on behalf of a corporate landlord.

Secondly, the tenant confirmed their email addresses during the hearing. The decision will be emailed to the tenant and agent. The decision will be sent by regular mail to the landlord as the agents did not have an email address to provide.

Issue to be Decided

- Should the 1 Month Notice be cancelled?

Background and Evidence

A copy of the written tenancy agreement was not submitted in evidence. The parties agreed that a month to month tenancy began on July 1, 2017.

The tenant filed their application to dispute the 1 Month Notice on August 7, 2020, which was within the 10-day timeline to dispute a 1 Month Notice under the Act. The effective vacancy date listed on the 1 Month Notice was August 31, 2020, which has passed. The parties confirmed that money for use and occupancy was paid by the tenant for September 2020. The tenant continues to occupy the rental unit and expressed their desire to continue to reside in the rental unit.

The 1 Month Notice listed 5 causes, specifically:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
4. 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.
5. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The agents first described a March 2018 incident where the tenant was dragging inside a blue bin with a propane container in it, and DD testified that the tenant said to him "if you say anything I will beat the shit out of you and ensure you can't talk", which the tenant denied saying. DD testified that was their first interaction with this tenant.

The agents then described a second incident in December 2019, where a plumber was working on a ladder in the hallways and the tenant pushed the ladder causing the plumber to fall and when LC approached the tenant the tenant said "Fuck you!" and pushed him near his neck. The tenant denied this incident during the hearing.

The details of dispute listed on the 1 Month Notice state:

Has disturbed other tenant with screaming & yelling pound on doors. Looking for alcohol at different hours of night & day. Damaging door of tenants by breaking door knobs and stealing from them going on for months. Attacked [illegible] and management verbally while intoxicated. Has made threats of bodily harm to other tenants.

The tenant was asked about their alcohol use and stated that they drink three times per week less than a six-pack. The tenant accused the agents of drinking way more vodka than the tenant drinks. Neither party stated that they had witnesses to present at the outset of the hearing.

The agents referred to a note slipped under another tenant's door, which the tenant admitted to writing. That note states:

I have a four by Four with your name on I dear you to walk my hall. Fuck you for making me having a cold shower ASSHOLE

Don't shit & piss on Floor & Don't even think About Shower go down stairs or I will break your Face & Balls.

The advocate stated that the tenant was afraid of another occupant T, who allegedly went in front of the tenant in the shower area the day before and threw an unknown substance on the tenant. The tenant confirmed that they did not phone the police the day earlier as their phone was not working and when asked why they did not contact the police the next day, the tenant stated the let the outreach worker know instead.

At this point of the hearing, the parties were advised that found the letter to be unreasonable and aggressive. I also find the letter by the tenant to be inconsistent with being a victim the day prior and I find the letter is a threat of bodily harm both physically and with a vehicle, which I find has no room in any tenancy. Therefore, the parties were advised that I did not find the tenant to be credible and as a result, preferred the evidence of the agents over the advocate and tenant, which I will address further below.

The tenant submitted a “Petition for Character Witnesses in the Defence of [tenant]” (Petition), which was reviewed and was typed with a place for signatures. Four names, one of which is illegible, are listed and will be addressed further below.

Analysis

Based on the documentary and digital evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the letter by the tenant to be very compelling and of significant weight. I find the tenant writing that letter is inconsistent with being afraid of someone and is more consistent with the tenant being a bully and an outright threat to other occupants. I also find the tenant's actions by writing the letter threatened another occupant with harm both physically and with their motor vehicle, which I find there is no room for in any tenancy.

I afford the Petition no weight as none of the four people listed were available to provide direct testimony and the document was not written by any of the four people listed on the document. I also note that a fifth signature was listed without a name. In addition, I find the character of the tenant is not relevant as character is not the cause of the eviction, rather it is the actions of the tenant noted above.

Therefore, I do not find it necessary to consider any other causes or further evidence as I am satisfied that the landlord has met the burden of proof on the civil standard and considering that I find the tenant is not credible. I find that the tenant has significantly interfered with other occupants by writing the letter threatening assault twice.

Section 55 of the Act applies and states:

Order of possession for the landlord

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 to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and**
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[Emphasis added]

As mentioned above, I disagree with the advocate and/or tenant that the 1 Month Notice should be invalid as the agent address is listed. I find that argument fails as an agent is entitled under the Act to serve a 1 Month Notice on the tenant on behalf of a landlord and that an agent of a landlord meets the definition of a landlord under the Act. Given the above and considering that I have found that the 1 Month Notice complies with section 52 of the Act, I grant that the landlord an order of possession effective **September 30, 2020 at 1:00 p.m.** I have used this date as the landlord confirmed that money has been paid for use and occupancy for September 2020.

I find the tenancy ended on August 31, 2020, which was the effective date of the 1 Month Notice.

Conclusion

The tenant's application has been dismissed without leave to reapply.

The landlord has been granted an order of possession effective September 30, 2020 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The tenancy ended on August 31, 2020.

This decision will be emailed to the tenant and tenant agent and will be sent by regular mail to the landlord. The order of possession will be sent by regular mail to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 18, 2020

Residential Tenancy Branch