



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding More than a Roof Housing and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, OLC, RP, MNDC

Introduction

This hearing dealt with an application by the tenant pursuant to sections 47, 62, 32 and 67 of the *Residential Tenancy Act*. The tenant applied to cancel the notice to end tenancy for cause, for an order directing the landlord to comply with the *Act* and carry out repairs. The tenant also applied for a monetary order for compensation

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant was accompanied by legal counsel. The landlord was represented by their agents.

As both parties were in attendance, I confirmed service of documents. The tenant confirmed receipt of the landlord's evidence and stated that she did not file any of her own. I find that the tenant was served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

At the start of the hearing the tenant informed me that she wished to withdraw her application for remedies other than to cancel the notice to end tenancy. Accordingly, this hearing only dealt with the tenant's application to set aside the notice to end tenancy for cause.

The landlord provided extensive documentary evidence. I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issues to be decided

Does the landlord have reason to end the tenancy or should the notice to end tenancy be set aside and the tenancy be allowed to continue?

Background and Evidence

The background facts are generally undisputed. The tenancy started on May 01, 2014. The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$348.00.

The landlord stated that the tenant has a history of causing damage to the rental property, writing graffiti on the landlord's vehicle, negatively interacting with other tenants and landlord's staff and not cooperating with the landlord when maintenance of the rental unit needs to be carried out.

The parties have participated in at least three dispute resolution hearings prior to this hearing, starting October 25, 2019. Multiple warning letters have been served to the tenant for verbal abuse to staff and other tenants, for causing damage to the landlord's property by breaking a glass door, moving a refrigerator, removing cable from a suite and overturning furniture, harassing contractors hired by the landlord and writing graffiti.

The landlord testified that at one of the previous dispute resolution hearings the parties reached a settlement agreement. The landlord testified that the settlement agreement contains an acknowledgement from the tenant that she has caused damage to the landlord's property resulting in warnings to her and the issuance of a notice to end tenancy. The landlord testified that the tenant also acknowledged that she has a substance abuse problem. The landlord agreed to withdraw that notice to end tenancy in accordance with the terms of the settlement agreement.

The landlord testified that the tenant has not complied with the terms of the settlement agreement and that there have been further incidents where the tenant has caused damage to the rental unit; was verbally abusive; and put the landlord's property at risk. The landlord provided a copy of a settlement decision dated December 12, 2019.

The landlord testified that in February 2020 when they were dealing with a water leak that affected the tenant's suite, she became angry and abusive, and caused damage to a courtesy suite. The landlord testified that the tenant overturned furniture and damaged a wall. The landlord provided photographs of damage caused by the tenant.

The landlord testified that the tenant also denied access to the landlord to make repairs to the rental unit after the landlord had issued a proper notice of entry to the tenant. The landlord testified that after refusing entry to permit the repairs, the tenant called the city to complain that the landlord was not making repairs. The landlord testified that the city warned the landlord that they could be fined if the repairs are not made.

The landlord provided a summary of the warning letters provided to the tenant:

1.	June 10, 2017	Rude and inappropriate behaviour, moving appliance
2.	August 02, 2017	Vandalism – breaking a glass door by kicking it
3.	August 17, 2017	Harassment of landlord's contractor
4.	February 14, 2019	Smoking in public area
5.	September 12, 2019	Vandalism – permanent marker, spray paint on truck and office door
6.	February 11, 2020	Vandalism to courtesy suite and verbal abuse to staff
7.	February 24, 2020	Breach regarding Covid protocol
8.	April 02, 2020	Breach regarding Covid protocol
9.	July 12, 2020	Incident with staff and complaints by other residents
10.	September 08, 2020	Incident with another resident

The landlord filed copies of all the above warning letters into evidence. The landlord also filed copies of complaints written by other residents of the complex dated July 30 and September 08, 2020.

Despite having made an agreement with the landlord to improve behaviour, having an order of possession granted to the landlord in a prior hearing and a notice to end tenancy served on the tenant on September 08, 2020, the tenant's behaviour did not change and an incident occurred on September 29, 2020.

The landlord filed a video of an argument that took place in the lobby of the building between the tenant and another resident of the complex (AB). The video shows that the tenant was on her way out when she started talking to AB in the lobby. AB appeared to be in the process of hitching a trailer to his bicycle.

The video continues and shows the tenant waving a cardboard box at AB in a threatening manner. After about 5 minutes of what looked like a heated discussion, the tenant continued on her way out. AB followed her to the door, and she waved the box at him before continuing on her way. The tenant stated that she was fearful of AB and was protecting herself.

The landlord stated that on September 29, 2020, the tenant wrote swear words on the landlord's truck. A photograph was filed into evidence. The landlord testified that there were two other incidents of graffiti on the truck after the last hearing on April 30, 2020.

On September 08, 2020, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner. The reasons for the notice are:

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

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

Analysis

In order to support the notice to end tenancy, the landlord must prove the reason for the notice to end tenancy. Based on the documentary evidence of the landlord and the verbal testimony of both parties, I find that the tenant has acknowledged that she has caused damage to the landlord's property resulting in warnings and the issuance of a notice to end tenancy in late 2019.

Despite having been given a chance to improve behaviour, the disruptions continued which prompted the landlord to issue a second notice to end tenancy on September 08, 2020.

I find that on August 28, 2020, the tenant engaged in a discussion with AB despite her alleged fears of him. Based on the video filed into evidence by the landlord, I find that the tenant could have simply continued on her way out instead of stopping to talk to AB. The tenant did exhibit threatening behaviour towards AB.

I further find that despite the multiple warnings to the tenant regarding vandalism and graffiti, the activity continued as recently as September 29, 2020.

The documentary evidence filed by the landlord fully supports his verbal testimony regarding the complaints of inappropriate behaviour towards the landlord's staff and other residents in the building complex and the damage to the landlord's property by writing on the truck, destroying a glass door and other vandalism.

Based on the documentary evidence of the landlord and the verbal testimony of both parties, I find that the tenant was verbally abusive, intimidating and threatening to the landlord's staff and other residents of the complex. The tenant was given multiple written warnings, but the behavior continued after the warnings. The tenant was also served a notice to end tenancy and other similar incidents occurred after the notice was served on the tenant.

The documentary evidence filed by the landlord fully supports his verbal testimony regarding the complaints and the interactions between other residents and the tenant. The written complaints provide information about incidents that occurred and support the reasons for the notice to end tenancy. Upon careful consideration of the evidence before me I find that the incidents that occurred in the recent months involve behaviour of the tenant that is serious enough to cause the other occupants of the building to voice their concerns in writing.

I further find that the tenant does not recognise the seriousness of the consequences of her behaviour and does not make any effort to improve. The tenant did not express any remorse or show any intent to change her behaviour in the future. I find that by not taking responsibility for any of her actions, the tenant does not intend to improve her behaviour or stop the verbal abuse and threatening of other residents and the landlord's staff, destroying the landlord's property and engaging in vandalism. I find that the landlord has proven that despite multiple warnings, notices to end tenancy and a settlement agreement, the tenant has continued to engage in activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupants of the property.

Therefore, I uphold the notice to end tenancy.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

- 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.

In this case, I find that the landlord served the tenant with a notice to end tenancy that complies with section 52. I have determined that the landlord has proven his case and therefore I have upheld the notice to end tenancy. Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy.

Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective by **1:00pm on November 30, 2020.**

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: November 17, 2020

Residential Tenancy Branch