



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MORE THAN A ROOF HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

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

- an Order of Possession for cause, pursuant to section 55.

The landlord's two agents, landlord JL ("landlord") and "landlord CW," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 21 minutes.

The landlord confirmed that he was the director of facilities and operations and landlord CW said that he was the chief operating officer, both employed by the landlord company named in this application. Both the landlord and landlord CW confirmed that they had permission to represent the landlord company named in this application at this hearing.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application.

The tenant confirmed that he did not submit any documentary evidence for this hearing.

The tenant confirmed receipt of the landlord's One Month Notice to End Tenancy for Cause, dated August 4, 2020 ("1 Month Notice") on the same date. The landlord confirmed the above date of service. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on August 4, 2020.

The tenant confirmed that he did not dispute the landlord's 1 Month Notice by filing an application for dispute resolution at the Residential Tenancy Branch.

Issue to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on December 1, 2014. Monthly rent in the current amount of \$348.00 is payable on the first day of each month. No security or pet damage deposits were paid for this tenancy. The tenant continues to reside in the rental unit.

Both parties agreed that the landlord's 1 Month Notice indicates an effective move-out date of September 30, 2020. Both parties agreed that the landlord issued the notice for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*
 - *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *Tenant or a person permitted on the property by the 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;*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord seeks an order of possession based on the 1 Month Notice. The tenant disputes the landlord's 1 Month Notice.

The landlord testified regarding the following facts. The tenant has been yelling obscenities out his window, playing loud music, and disturbing tenants in the rental building and across in another building. The tenant has yelled homophobic slurs to one

tenant across in a neighbouring building (“neighbour”), who complained to the landlord. Another tenant in the tenant’s rental building has also complained to the landlord about the tenant’s behaviour. The tenant stands at his window, yells, plays an instrument, and yells degrading and obscene slurs. The landlord tried to assist the tenant by having a community support worker meet with him, but the tenant refused the assistance, as he was not interested. The landlord sent the tenant the first letter on May 12, 2020 to stop his unacceptable behaviour after an incident, the second letter on May 22, 2020 as a final warning after another incident, and then the 1 Month Notice on August 4, 2020 after a final incident. In the last two weeks, there have been three incidents, where the tenant yelled homophobic slurs to the neighbour. These occurred on the weekends of November 28, 2020 and December 5, 2020, and again on December 11, 2020, when the neighbour and the landlord both called the police. The neighbour and his partner are both stressed, texted the landlord, and have called the police multiple times regarding the tenant’s behaviour.

The tenant stated the following facts. The neighbour and his partner across the street are “crackheads” and break into places, which can be seen by tenants in the rental building, as there are cameras everywhere. It is a “gang of crackheads” who are “terrorizing” the tenant and “following” him around for four years. They stole the tenant’s wallet and phone from his rental unit. The tenant is a homosexual, so why would he yell homophobic slurs to other people. The tenant has PTSD because he served in the military, as did his brothers and sisters. The tenant has been fighting HIV for 30 years and that is why he was unable to dispute the landlord’s 1 Month Notice. Everyone laughs at the tenant and puts him down. The landlord has been trying to kick the tenant out since the pandemic started. The tenant has talked to the police about the “gang of crackheads” but the police have not done anything.

Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant significantly interfered with and unreasonably disturbed other occupants and the landlord.

I accept the landlord’s testimony and evidence that the tenant yells obscene, degrading and homophobic slurs out his window at the rental building, he plays loud music, and he disturbs the landlord, other occupants in the rental building, and other occupants in a neighbouring building. The landlord has given the tenant two warning letters in May 2020, a 1 Month Notice in August 2020, and a community support worker for assistance, which the tenant refused. I accept the landlord’s evidence that the tenant’s

disruptive behaviour has continued since the 1 Month Notice was issued, as recently as December 11, 2020, which is three days prior to this hearing on December 14, 2020, when the police were called.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reasons.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on September 30, 2020, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by September 30, 2020.

As this has not occurred, I find that the landlord is entitled to an **order of possession effective at 1:00 p.m. on December 31, 2020**, pursuant to section 55 of the *Act*. Neither party raised any issues with respect to December 2020 rent not being paid, so I find that the tenant is entitled to possession of the rental unit until the end of December 2020. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

Conclusion

The landlord's application is allowed. I grant an Order of Possession to the landlord **effective at 1:00 p.m. on December 31, 2020**. Should the tenants or anyone 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: December 14, 2020

Residential Tenancy Branch