



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On October 28, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a One Month Notice to End Tenancy for Cause, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause, dated October 28, 2020 (the “One Month Notice”) be cancelled, pursuant to section 47 of the Act?

If the One Month Notice is not cancelled, should the Landlord receive an Order of Possession, in accordance with section 55 of the Act?

Should the Tenant be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties agreed to the following terms of the tenancy:

The month-to-month tenancy began on August 17, 2019. The rent is \$1,000.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$500.00. The residential property is a four-plex and the Tenant lives in one of the bottom rental units.

Both parties agreed that the Landlord served the One Month Notice to the Tenant on October 28, 2020. The effective (move-out) date of the One Month Notice was for November 30, 2020.

The Landlord testified that the One Month Notice was issued as the Tenant had significantly interfered and unreasonably disturbed other occupants in the residential property and had breached a material term; specifically, clause #16 in the Tenancy Agreement where the Tenant agreed to conduct themselves in a manner that did not annoy, interfere or disturb other tenants.

The Landlord stated that, in January and February 2020, she received some text messages from one of the occupants in the residential property who complained about the Tenant's rude and inappropriate behaviour. The occupants threatened to move out of their rental unit because of the Tenant and did so in May 2020.

The Landlord submitted that, as a result of the complaints, the Landlord wrote a caution notice to the Tenant on February 5, 2020 asking her to document any issues in writing, to stop communicating with the occupant, and warned her about the potential of a one month eviction notice.

The Landlord provided a copy of a text and a follow-up letter from two of the upstairs occupants, about an incident that occurred on August 27, 2020. The occupants described the Tenant as screaming and calling them names for about a half hour. The Tenant was yelling at the occupants about garbage day and parking issues.

The occupants also indicated that later the same night, their power was turned off for 15 minutes and that the breaker box is in the Tenant's rental unit.

The Landlord submitted a copy of a text that she stated was received unsolicited from the Tenant's neighbour. The text indicated that the neighbour (another occupant of the property) overheard the Tenant yelling at the upstairs occupants on August 27, 2020. The neighbour explained to the Landlord that she thought the upstairs occupants had always been respectful and quiet.

The Landlord submitted a letter, signed by the upstairs occupants, about an incident that occurred on October 16, 2020. The letter documented another argument between the upstairs occupants and the Tenant about the Tenant parking in the occupant's driveway. The occupants, via the letter, indicated that the Tenant was directly insulting, using profanities and acting in an aggressive manner towards the occupants.

The Landlord submitted a caution notice, dated October 17, 2020, that she served to the Tenant and warned her about her irrational behaviour, use of expletives towards the upstairs occupants, slamming the door and screaming in her unit.

The Landlord submitted a text, dated October 27, 2020, from the upstairs occupant that documented that the Tenant had been screaming at the shared door (between units) and that the Tenant sounded “pissed off” at the occupants.

The Landlord served the Tenant the One Month Notice on October 28, 2020.

The Landlord submitted a letter, signed by one of the upstairs occupants and dated November 2, 2020. The letter documented an incident where the Tenant drove up beside the occupant, who was walking, opened the car window and yelled at the upstairs occupant to “stop slamming the fucking door you bitch.”

The Landlord submitted other emails from the upstairs occupants noting various incidents since the service of the One Month Notice, including when the Tenant was banging on the shared door and calling the occupants names.

The Landlord submitted a copy of a letter, dated December 7, 2020 that documented an incident where one of the upstairs occupants explained that the Tenant, again in her car, followed the upstairs occupant while she was walking, yelled at her and threw something out the window at the occupant.

The Landlord stated that the Tenant has been paying her rent and that the Landlord has been collecting the rent since the One Month Notice for “use and occupancy only” of the rental unit. The Landlord is requesting that the tenancy end based on the Tenant’s conduct and that an Order of Possession be issued as soon as possible.

The Tenant stated that the Landlord does not believe her when she reports noise coming from the other rental units.

The Tenant testified that she did not call any of the other tenants names, that there is no proof of this and that she is being bullied by the Landlord and the other tenants.

The Tenant acknowledged that the police attended for the December 7, 2020 incident and stated that the police didn’t think that she (the Tenant) was the problem.

The Tenant stated that she was away from the rental unit between March 30, 2020 and September 13, 2020 which proves that some of the Landlord’s evidence is false.

Analysis

Based on the undisputed evidence of both parties, I find that the Landlord served the One-Month Notice to the Tenant on October 28, 2020 and that the move-out date was

November 30, 2020. The reasons stated on page 2 of the Notice indicated that it was served as the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; and, breached a material term of the Tenancy Agreement.

When I consider the validity of the reasons the Landlord has for ending the tenancy, I must determine if the Landlord has sufficient evidence to prove that the Tenant's actions significantly interfered with or unreasonably disturbed another occupant and/or if the Tenant has breached a material term of the Tenancy Agreement.

The standard of proof is based on the balance of probabilities. If I find that any one of the reasons set out in the One Month Notice are valid and that the Notice complies with section 52 of the Act, I must grant the Landlord an Order of Possession for the rental unit in accordance with section 55 of the Act.

I note that the Tenant stated that she feels bullied by the tenants and the Landlord, and that that the Tenant claims there is no evidence that she has been yelling and calling the other tenants names.

In this case, I find that the Landlord has provided testimony and supporting evidence, which includes signed copies of letters, and copies of text and email correspondence from several occupants of the residential property.

The Tenant stated that she was away from the rental unit between the dates of March 30, 2020 and September 13, 2020 and claimed that some of the incidents as reported by the Landlord were false. When I considered the weight of this testimony from the Tenant, I noted that the Tenant had submitted evidence where she reported a noise disturbance to the Landlord that had occurred on September 8, 2020, which I find contrary to her claim of being away. The only incident that the Landlord reported between March 2020 and September 13, 2020 is the incident of August 27, 2020 and I find that the occupants of the residential property seemed quite clear that the Tenant was in attendance. Regardless of the conflicting testimony and evidence, I find there are many other occurrences to consider that fall outside of the Tenant's dates of concern.

Based on the testimony of the Landlord and the various descriptions of the Tenant's actions from the other occupants, I find that the Tenant has unreasonably disturbed other occupants of the residential property. Specifically, I find that the Tenant's aggressive behaviours of pounding on doors, calling the occupants profane names and

yelling at the occupants as unreasonably disturbing. As such, I find that the reasons for the One Month Notice are valid and I dismiss the Tenant's request to cancel the One Month Notice.

Section 52 of the Act requires that any Notice to End Tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date, state the grounds for ending the tenancy; and be in the approved form.

I find the One Month Notice, issued by the Landlord on October 28, 2020, complies with the requirements set out in Section 52.

As I have dismissed the Tenant's Application and found that the One Month Notice is valid, I grant the Landlord an Order of Possession for the rental unit in accordance with section 55 of the Act.

As the Tenant has paid for the use and occupancy of the rental unit until the end of January 2021, I issue an Order of Possession to the Landlord for January 31, 2021.

As I have dismissed the Tenant's Application, I find that the Tenant's Application is without merit. As such, I dismiss the Tenants' claim for compensation for the filing fee.

Conclusion

Pursuant to section 55 of the Act, I grant the Landlord an Order of Possession to be effective on January 31, 2021 at 1:00 p.m. This Order should be served on the Tenant as soon as possible. Should the Tenant 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: January 19, 2021

Residential Tenancy Branch