



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice); and,
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both sides were present at the teleconference hearing. The hearing was held on March 4, 2021. All parties provided testimony and were given a full opportunity to be heard, to present evidence and to make submissions.

The Tenant stated he served his Notice of Hearing and evidence to the Landlord in person on December 15, 2020. The Landlord (counsel), confirmed that the Landlord received this package, but stated that it did not contain any of the evidence (letter and photos), and only contained the Notice of Hearing. The Tenant brought a witness to the hearing, who testified that she was with the Tenant and observed the Tenant personally give the Notice of Hearing and all evidence to the Landlord on December 15, 2020. Having reviewed this matter, I note the Tenant provided third party information to corroborate what he served. I find it more likely than not that the Tenant served his evidence, as he has asserted. I find the Tenant sufficiently served his application and evidence.

The Landlord did not submit any documentary evidence and pointed to information she had submitted at a previous hearing. As stated in the hearing, the Landlord is unable to rely on evidence she submitted at previous hearings, and any evidence required for this proceeding, has to be re-served to both the RTB and the Tenant. As this was not done, I find the Landlord has no admissible documentary evidence for this hearing.

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.

Issue(s) to be Decided

- Is the tenant entitled to have the landlord's 1-Month Notice to End Tenancy for Cause cancelled?
 - If not, is the landlord entitled to an Order of Possession?
- Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

Both parties agree that the Landlord served the Tenant, in person, on November 30, 2020, with the Notice. The Notice indicates the following reasons for ending the tenancy on the second page:

Tenant has allowed an unreasonable number of occupants in the unit/site.

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.*
- *put the Landlord's property at significant risk.*

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.*

- *jeopardize a lawful right or interest of another occupant or the Landlord.*

Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the unit/site or property/park.

Tenant has not done required repairs of damage to the unit/site.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Rental unit/site must be vacated to comply with a government order.

Tenant has assigned or sublet the rental unit/site without Landlord's written consent.

The Landlord issued the Notice for several reasons. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine whether there are sufficient grounds to end the tenancy. In other words, my decision will focus on the underlined ground above, as this ground is what my decision hinges upon.

The Landlord testified that there has been an increasing amount of police and criminal activity at the rental unit since around October 2020, and the police have physically raided the house two times since the fall of 2020, once at the end of October 2020, and once in January 2021, where there was an armed standoff. The Landlord stated that the municipality has also started to take issue with this property, and have issued a few bylaw infractions in September of 2020. The first was for allowing too many occupants in the house, and illegally having and installing a hot plate in the basement of the home (illegal secondary living area). The second was for unsightly premises. The Landlord did not provide any copies of these infractions.

The Landlord stated that they have been trying to get documents from the police to corroborate the issues going on, but the FOI process is lengthy, and they could not get any evidence in time for this hearing. The Landlord stated that just prior to the Notice being issued (sometime at the end of October 2020), the police broke down the door of the rental unit looking for one of the occupants or guests, under a warrant. The Landlord stated that this was the first of two raids, the second of which happened after the Notice was issued, but is further evidence that the Tenant's continued occupation of the property poses a significant risk to the property itself. The Landlord explained that the

guests that are allowed into the rental unit attract police attention, and this ultimately causes damage, when the police come forcefully looking for some of these individuals for criminal activity.

The Tenant provided several statements with respect to the police activity, and the issues regarding the police raids. The Tenant explained that there are around 6 people living in the house. The Tenant and his girlfriend stay in one bedroom, his father stays in a different bedroom, a friend (and sometimes her boyfriend), stay in another bedroom on the main floor. The person who attended the hearing with the Tenant stays in the room in the basement, which the Tenant asserts is adjoined to this upper unit.

The Tenant acknowledged that there was a police raid at the end of October 2020, where the police broke down the door to try and find a wanted individual. The Tenant stated that the person who was wanted by police was visiting his father (roommate) a couple of days before the police raided the home. The Tenant stated that the police had a warrant for his arrest and he is a suspected drug dealer, which is why the door was broken in. The Tenant stated that the police did not locate the person they were looking for, nor did they locate any drugs or weapons. The Tenant stated that the only damage that occurred was from the police breaking down the door. The Tenant stated he does not know the specifics regarding why the police were trying to arrest the man who visited the rental unit in the days before the raid in October. However, the Tenant suggested that this individual has a police history and that individual had been allegedly involved in drug related matters.

The Tenants acknowledge that there has been a subsequent police raid in January 2021. The Tenant stated that the damaged front door in October was not their fault, as the police were looking for someone who was a guest a few days prior to the raid.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid.

The Landlord entered into written evidence a copy of the Notice. The issue on this Notice I have focused on is the following:

Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk

I note that the Tenant rents this house, and subsequently rents out rooms to other individuals (roommates). It appears the Tenant has done this for many years. However, there is no dispute that there has been more police involvement in the last few months, including multiple raids, and surveillance. I acknowledge that issues have continued to escalate since the Notice was issued on November 30, 2020. However, my focus in this review is whether or not the Landlord had sufficient grounds, at the time the Notice was issued, to end the tenancy.

The Tenant pointed out that the damage was caused by the police, who were seeking someone who was frequenting the house in the days prior to the raid in October. I accept this damage was not directly caused by the Tenant. However, the Tenant is responsible for all occupants and guests who visit and/or stay at the rental unit. The Tenant indicated he was aware this individual was visiting the property as he was visiting one of the Tenant's roommates, so I find it more likely than not that he was likely permitted to be on the property by the Tenant.

It is undisputed that the police had a warrant for the arrest of this individual who was visiting the rental unit, which appears to have led to the raid at the end of October 2020. I find the Tenant is ultimately responsible for anyone who is permitted to be on the property. This includes being responsible for damage, risk, or loss that results from the guests presence at the rental unit.

In this case, the front door was broken in, due to the Tenant's guest, and regardless of whether or not the door has been subsequently fixed, I find the person permitted on the property by the Tenant put the Landlord's property at significant risk, merely by his presence, given the criminal activity he was involved in that would warrant such police scrutiny (reasonable and probable grounds that this individual was involved in criminal activity). I find this is a sufficient basis to end the tenancy under section 47(1)(d)(iii). As such, I find the Landlord has sufficient cause to issue the Notice. The Tenant's application to cancel the Notice is dismissed. The tenancy is ending, under the Notice, as described below.

Given my findings on this matter, it is not necessary to consider the other grounds listed on the Notice.

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession. 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 of the notice, state the grounds for ending the tenancy, and be in the approved form. I find the Notice meets the form and content requirements under the *Act*.

The Landlord is entitled to an order of possession.

During the hearing, the Landlord indicated they would be agreeable to extending the order of possession date until April 5, 2021, in order to allow more time to move.

I have considered this statement, and I find the Landlord is entitled to an order of possession effective **April 5, 2021, at 1pm** after service on the Tenant.

Conclusion

The Tenant's application to cancel the Notice is dismissed.

The Landlord is granted an order of possession effective **April 5, 2021, at 1pm**, after service on the Tenant. This order must be served on the tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: March 05, 2021

Residential Tenancy Branch