



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA WOMEN'S RESOURCE
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

On January 22, 2021, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") requesting an Order of Possession for the rental unit. 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.

Preliminary Matter – Service of Notice of Dispute Resolution Proceedings

The Landlord testified that the Notice of Dispute Resolution Proceedings and the relevant evidence was served to the Tenant via registered mail on January 25, 2021. The Landlord provided a tracking number, as noted on the face page of this document.

The Tenant stated she did not know about this hearing and although she acknowledged that she received a notice card from Canada Post about a package for pickup, the Tenant stated that she had no identification and could not pick up the package. The Tenant did say that she received information that was posted to her door yesterday about this hearing and the call-in numbers.

The Tenant stated that she had no knowledge of the Notice to End Tenancy either. When the Landlord was asked, the Landlord stated that the package containing the Notice to End Tenancy for Cause was served on the Tenant on November 26, 2020, via registered mail; the Landlord provided a tracking number. According to the Canada Post website, a notice card was left at the Tenant's address on November 27, 2020 indicating where and when to pick up the package. The website indicated that the notice was delivered on December 8, 2020 and a signature was available for delivery confirmation.

Based on the above, I find that the Tenant was, in fact, aware of the Notice to End Tenancy and was able to pick up the package from Canada Post. I find that the

Landlord served both the Notice to End Tenancy and the Notice of Dispute Resolution Proceedings, in accordance with the Act and as such, I find the hearing should proceed and that the Landlord's evidence is admissible.

Preliminary Matter – Tenant attendance

The Tenant attended the hearing with a support worker, who did not identify themselves as they did not intend on testifying during the hearing.

During the hearing, the Tenant kept speaking over the Landlord and myself and when I attempted to ask the Tenant a question about her tenancy, she would not let me speak. The Tenant left the hearing at the 32-minute mark and did not return.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did originally call into the conference but left half-way through; the hearing was continued in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Issue to be Decided

Should the Landlord receive an Order of Possession, in accordance with section 55 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 March 20, 2019. The rent was \$375.00 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$359.00.

The Landlord testified that there had been several problems during the length of the tenancy where the Tenant had acted aggressively towards other occupants and staff.

On November 26, 2020, the Landlord sent a One-Month Notice to End Tenancy for Cause, dated November 26, 2020 (the One Month Notice), via registered mail to the

Tenant. The One Month Notice provided an effective move-out date of January 1, 2021 and the following reasons for the end of the tenancy:

- The Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
- The Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- 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.
- The Tenant has engaged in illegal activity that has or is likely to jeopardize a lawful right or interest of another occupant.

The Landlord submitted documentation including warning letters to support the following testimony:

- May 1, 2020: The Tenant was angry at staff for her fob not working and during the conversation, picked up a bike and attempted to smash through the window of the office.
- May 5, 2020: The Tenant became angry when the manager wasn't in the building to speak with her. She kicked the office door and threw down a chair that was in the lobby.
- August 7, 2020: The Tenant arrived at the residential property by taxi but didn't have money to pay the fare. One of the other occupants went out to pay for the taxi and the Tenant began having an argument with the occupant and ended up in a fight.
- November 25, 2020: Staff found the Tenant and three unknown guests using drugs in the garbage room. When asked to leave, the Tenant became aggressive by throwing things, yelling racial profanities, and holding and pointing an uncapped needle at staff.
- January 9, 2021: The Tenant began arguing with an elderly occupant of the residential property and threatened to poison her dog.
- January 12, 2021: The staff delivered food to the rental unit and a man answered to say that the Tenant was not in the unit. The Tenant contacted and spoke to staff and indicated that there had been an argument and that she was being held against her will. The staff called the police and after three hours, the police gained entry to the unit by knocking-in the door. Police and staff found the Tenant at home, by herself with no male present.
- January 19, 2021: The Tenant was verbally abusive to the staff. A letter of warning was delivered to the Tenant to stop behaving in this manner.
- The Tenant has regularly refused to follow guest restrictions to curb the spread of COVID-19.

The Landlord stated that they provide supportive housing to tenants and is not in the business of evicting tenants; however, that this Tenant is disruptive to both the occupants in the residential property and the staff. The Landlord is requesting an Order of Possession for June 30, 2021 to allow the Tenant to find new housing.

Analysis

The Landlord has served the One Month Notice on the Tenant based on sections 47(1)(d) and 47(1)(e) of the Act. 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, or seriously jeopardized the health and safety or a lawful right of another occupant. Furthermore, in relation to section 47(1)(e), that the activities of the Tenant adversely affected the quiet enjoyment, security safety, or physical well being of another occupant and these actions were illegal. 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 accept the Landlord's undisputed testimony and supporting documentation and, based on a balance of probabilities, find that the Tenant has significantly interfered with and unreasonably disturbed another occupant when she threatened to poison the occupant's dog. Furthermore, I find that Tenant's actions of getting into a fight with another occupant, smashing a bike against the window of the office, and initiating a major police response without reason, also disturbs both the quiet enjoyment and physical well being of the occupants and staff of the residential property.

Based on the evidence of the Landlord and these findings, I find that the reasons for the issuance of the One Month Notice are valid.

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 November 26, 2020, complies with the requirements set out in Section 52.

I have found that the One Month Notice is compliant with the Act and for this reason and because the Tenant is still occupying the rental unit, I grant the Landlord an Order of Possession for the requested effective/move-out date of June 30, 2021.

Conclusion

Pursuant to section 55 of the Act, I grant the Landlord an Order of Possession to be effective on June 30, 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: April 19, 2021

Residential Tenancy Branch