



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, RP, OLC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on January 28, 2021, wherein the Tenant sought to cancel a 1 Month Notice to End Tenancy for Cause, issued on January 25, 2021 (the "Notice"), an Order that the Landlord make repairs to the rental unit and comply with the *Residential Tenancy Act* (the "Act"), the *Residential Tenancy Regulation*, and/or the residential tenancy agreement.

The hearing of the Tenant's Application was scheduled for 9:30 a.m. on April 27, 2021. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

The parties were cautioned that recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. Both parties confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter—Date and Delivery of Decision

The hearing of the Tenant's Application concluded on April 27, 2021. This Decision was rendered on May 28, 2021. Although section 77(1)(d) of the *Residential Tenancy Act* provides that decisions must be given within 30 days after the proceedings, conclude, 77(2) provides that the director does not lose authority in a dispute resolution proceeding, nor is the validity of the decision affected, if a decision is given after the 30 day period.

Issues to be Decided

1. Should the Notice be cancelled?
2. Should the Landlord be ordered to make repairs to the rental unit?
3. Should the Landlord be ordered to comply with the *Act*, the *Residential Tenancy Regulation*, and/or the residential tenancy agreement?

Background and Evidence

Residential Tenancy Branch Rules of Procedure—Rule 6.6 provides that when a tenant applies to cancel a notice to end tenancy the landlord must present their evidence first as it is the landlord who bears the burden of proving (on a balance of probabilities) the reasons for ending the tenancy. Consequently, even though the Tenant applied for dispute resolution and is the Applicant, the Landlord presented their evidence first.

The Landlord's Manager of Tenant Relations, Y.B. testified on behalf of the Landlord. She confirmed that this tenancy began August 1, 2013. The rent is \$320.00, although the Tenant pays a total of \$379.00 which includes rent and utilities. Y.B. stated that the rental unit is in a subsidized seniors rental building with 100 units; it is not supported housing, merely subsidized.

The Landlord issued the Notice on January 25, 2021. The reasons cited on the Notice were that the Tenant or a person permitted in the rental unit by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Y.B. stated that the main issue is that the Tenant has created conflict with the Landlord's staff as she continually complains that the staff are not up to her high standards. Y.B. stated that the Tenant takes it upon herself to "oversee" work done in

the building: she directs staff; she follows the staff around and takes pictures of what they are doing; she instructs and chastises them when they don't meet her specifications; and when she doesn't like the answer, she becomes insulting and dismissive. Y.B. confirmed that the Landlord has, since 2014 instructed her to not communicate directly with field staff and contractors, yet she continues to do so.

In terms of warnings, Y.B. testified that in December 2019, the Landlord issued a 1 Month Notice to End Tenancy for Cause for the same reason. At the time, the Tenant claimed she was dealing with personal issues. The Landlord rescinded the Notice, but clearly directed the Tenant not to watch, oversee or direct in any way, the Landlord's staff. Y.B. stated that despite this formal notice the Tenant has continued to engage in these behaviours.

The Landlord also provided reports from staff who feel harassed by the Tenant and feel that her behaviour has created a toxic work environment. Y.B. further noted that during the pandemic, when the Tenant is supposed to be keeping her distance, she continues to engage the staff, direct and "oversee them" without maintaining proper social distancing. Y.B. stated the Landlord has to look after the mental health of their staff as if they don't, they are going to have WCB claims and union complaints.

In terms of whether the situation has changed, Y.B. stated that it has remained the same since December 2019, but now they have had to move caretakers out due to the Tenant's behaviour and are currently running out of caretakers. Y.B. stated that the last caretaker, M.G., has demanded that the Landlord do something about the Tenant. The Landlord provided emails from M.G. wherein they express their concerns regarding the Tenant as well as the impact the Tenant's behaviour has had on M.G.'s employment.

Y.B. further testified that the Tenant has recently made an issue of residents smoking cannabis. Despite the fact Y.B. explained that the Landlord did all that they can to restrict cannabis smoking, but that those who were permitted to smoke were also permitted to smoke cannabis, the Tenant is dissatisfied with the Landlord's response.

Y.B. stated that they simply cannot let this situation continue. They are not prepared to continue with tenancy as they have no reason to believe the Tenant's behaviour will improve. Y.B. confirmed that they are very concerned about their staff and need to address this issue.

In response to the Landlord's claim, the Tenant testified as follows. The Tenant stated that she has a binder spanning four decades regarding her work ethic. She also noted

that prior to living in the rental unit, she had no problem living in other rental units with her high moral standards. The Tenant also alleged that Y.B. puts a “negative spin” on every request the Tenant makes, and exaggerates the staff’s concerns.

The Tenant noted that there have been six caretakers over eight years. She claimed that each train the next, and currently the newest caretaker “knows nothing”. The Tenant also stated that the new caretaker is unaware that the Tenant is in fact a considerable asset as she: cares for the plant; donates office equipment; donated a stationary bike; and, “rescued” oil paintings in the foyer.

The Tenant also stated that she has complied with section 18 of her residential tenancy agreement in terms of her responsibility to report deficiencies, however the Landlord’s staff “just don’t want to hear it”. She also noted that she takes issue with the way she is spoken to as well as their tone.

The Tenant also stated that the Landlord provides safe and affordable housing for seniors which is essential, but they are not doing an adequate job. For instance, she claimed that the Landlord does not talk to residents about decisions which affect the people who pay for it. The Tenant stated that she does not feel treated with dignity.

The Tenant denied unreasonably disturbing anyone. She also denied “harassing” the staff, claimed she is not impolite, and stated that she simply speaks to workers and staff. The Tenant stated that the “real problem” is that the custodians don’t do their job, and in support provided photos and documents showing that the carpets aren’t vacuumed even every three weeks.

The Tenant further stated that the caretakers are not adequately paid by the Landlord and the job is too much for them. She stated that when something is said to them, there is a gap between what the Tenant writes, which is “exactly what is happening”, and how it is conveyed to the Landlord, but the simple fact is that the staff are not doing a good job.

The Tenant also claimed that the Landlord makes it seem like whoever is speaking up is the problem and suggested that they had to “look really hard for a reason for ending the tenancy”.

The Tenant suggested that the information contained in the letters from the caretakers was untruthful. The Tenant claimed that it was in fact the case that the caretakers are very mean to her and were “terrible” to her son. The Tenant stated that M. thinks that

she is on “high moral ground” because she thinks she is a good cleaner, yet the Tenant has photos which show otherwise. The Tenant stated that the only way to get the work done properly is to take photos and bring it to the Landlord’s attention.

The Tenant confirmed that the Landlord wants to evict her because they don’t want to hear from her. She also claimed the Landlord is trying to silence other residents who bring up issues.

Analysis

Ending a tenancy is a significant request and must be done in accordance with the *Act*. A Landlord who has cause to end a tenancy may issue a 1 Month Notice to End Tenancy for Cause pursuant to section 47. In this case, the Landlord seeks to end this tenancy pursuant to section 47(1)(d)(i) of the *Act* on the basis that the Tenant has unreasonably disturbed the Landlord’s staff, to such an extent that the Tenant has created a toxic work environment.

In all cases the Landlord bears the burden of proving the reasons for ending the tenancy on a balance of probabilities. I find the Landlord has met the burden in this case.

I am persuaded by Y.B.’s testimony that the situation has become intolerable. I accept her testimony that the Tenant directs and critiques staff, to such an extent that they refuse to work at the rental building. The Landlord provided considerable documentary evidence from staff in which they confirm the difficulties they have had with dealing with the Tenant. The Landlord also provided considerable evidence that the Tenant has repeatedly been warned that her behaviour has put her tenancy in jeopardy. The Landlord went so far as to issue a similar notice in 2019, and gave the Tenant another chance to improve her behaviour. Y.B.’s testimony and the documentary evidence filed confirms the Tenant’s behaviour has not improved, but has instead continued to such an extent that she is unreasonably and relentlessly disturbing the Landlord’s staff.

The Tenant’s response to the Landlord’s request to end her tenancy is that the Landlord simply wants to evict her as they do not want to hear from her regarding the staff’s deficiencies.

It is clear the Tenant cares about her living environment as well as the environment for other residents. It is also very evidence that she wants the rental building to be well

maintained. She has gone so far as to donate her time to making the rental building more enjoyable for other residents.

However, and problematically, it is equally clear that the Tenant has no insight into the impact her behaviour has on the Landlord's staff. During the hearing the Tenant repeatedly complained about the staff's substandard work. Instead of responding to the Landlord's claims and providing submissions in response to the Landlord's request to end her tenancy, the Tenant fixated on the staff's inadequacies and failures. Even when I brought it to the Tenant's attention that her communication with the staff had put her tenancy in jeopardy, the Tenant was relentless in her critique of the staff. I find it likely she is far more vocal when not in the hearing before me and her testimony gave me a flavour of the difficulties the staff have endured.

In all the circumstances, **I find the Landlord has met the burden of providing that the Notice should be upheld.** I am satisfied the Tenant has unreasonably disturbed the Landlord's staff to such an extent that her tenancy must end. I am not persuaded that this is the type of situation that might improve with time, as much time has passed since this tenancy began and these issues have persisted throughout the tenancy. As such, **I dismiss the Tenant's request to cancel the notice; The tenancy shall end in accordance with the Notice.**

Section 55 of the *Residential Tenancy Act* provides as follows:

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.

I have reviewed the Notice and confirm it complies with section 52 of the *Act*. As I have dismissed the Tenant's Application, I grant the Landlord an Order of Possession effective **two days** after service upon the Tenant. This Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

As the tenancy is ending the balance of the relief sought by the Tenant is moot. I therefore dismiss the entirety of the Tenant's claim without leave to reapply.

Conclusion

The Tenant's request for an Order canceling the Notice and recovery of the filing fee is dismissed. The balance of the Tenant's claim is similarly dismissed without leave to reapply as the tenancy is ending.

The Landlord is granted an Order of Possession.

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: May 28, 2021

Residential Tenancy Branch