



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Broadway Pentecostal Benevolent Assoc of
BC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LL: OPC
 TT: CNC

Introduction

This hearing dealt with applications from both the landlord and tenant pursuant to the *Residential Tenancy Act* (the “Act”).

The corporate landlord applied for an order of possession pursuant to section 55.

The tenant named the personal respondent and seeks cancellation of a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) pursuant to section 47.

All parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The personal respondent (the “landlord”) confirmed they are the agent for the corporate landlord. They gave evidence on behalf of the corporate landlord assisted by another agent.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in September 2012. The current monthly rent is \$520.00 payable on the first of each month. The rental unit is a suite in a multi-unit building with 80 rental units. There was a previous hearing on June 14, 2019 pertaining to an earlier 1 Month Notice to End Tenancy for Cause. The parties entered into a settlement agreement wherein the landlord withdrew the Notice on the following terms.

1. The tenant agreed to refrain from creating noise disturbance of any kind which include loud music and screaming arguments.
2. The tenant agreed to observe quiet times from 11:00 pm to 8:00 am every day.
3. The tenant agreed to refrain from smoking on any part of the landlord's property.
4. The tenant agreed not to allow his visitors to smoke on any part o the landlord's property or to disturb the other occupants of the building.
5. Both parties confirmed that they understood and agreed to the terms of this agreement.

The presiding arbitrator further wrote:

The tenant would be wise to ensure that he and his visitors did not smoke, disturb the other tenants in the building or give the other tenants reason to complain about the activities of the tenant. I find it timely to put the tenant on notice that, if he does not comply with the terms of this agreement and another notice to end tenancy is issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator for consideration.

The landlord submits that the tenant's conduct since the earlier hearing has given rise to multiple complaints by other occupants of the rental building and the basis for the

issuance of the present 1 Month Notice to End Tenancy for Cause dated March 29, 2021.

The reasons provided on the notice for the tenancy to end are:

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;*

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 or the landlord;*

The landlord submits that the tenant and their guests have been disrespectful and aggressive with other occupants of the building, cause loud noise and disruptions to other occupants and the police have been called on occasion.

The landlord submitted into evidence multiple written complaints received about the tenant and their guests. The complaints are issued by multiple individual other occupants who observed the tenant and their visitors disregard public health guidelines, cause excessive noise at all hours and fear for their personal safety. The landlord also submitted photographic evidence of the tenant smoking on or about the rental property.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

In the present case the tenant confirms they were served with the 1 Month Notice on March 29, 2021 and filed their application for dispute resolution on April 7, 2021. Therefore, I find the tenant was within the statutory timeline to file an application to dispute the notice.

If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice.

I am satisfied with the preponderance of evidence submitted by the landlord that there is a basis for this tenancy to end. I find the multiple written complaints by the other occupants of the rental property detailing the manner and frequency with which the tenant and their guests have interfered with and caused disturbance to be persuasive. The complaints are issued by several different occupants but all provide cogent, consistent evidence of the tenant and their guests' conduct and the impact it has had on their tenancies. I do not find the tenant's submission that they dispute the written statements and have not disturbed anyone to be supported in the materials or have an air of reality.

I find that the landlord has established, through both their testimony and their documentary submissions including the multiple complaints by other occupants received prior to the issuance of the 1 Month Notice and the subsequent complaints received prior to the hearing, that there is a basis for the notice.

I am satisfied that the 1 Month Notice conforms with the form and content requirements of section 52 of the Act as it is signed and dated by the landlord, identifies the parties, the address of the rental unit and gives the reason for the issuance of the notice.

Accordingly, I dismiss the tenant's application and issue an Order of Possession in the landlord's favour. As the effective date of the 1 Month Notice has passed I issue an Order effective 2 days after service on the tenant.

Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenant or any occupant 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: July 29, 2021

Residential Tenancy Branch