



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OLC, FFT, CNC, PSF, LAT, MNDCT, CNR**

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46;

Both 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 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

Is the tenant entitled to any of the relief sought?

Should the 1 Month Notice and 10 Day 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.

This tenancy began on April 1, 2021. The monthly rent is \$900.00 payable on the first of each month. A security deposit of \$450.00 and pet damage deposit of \$450.00 were paid at the start of the tenancy and are still held by the landlord. The rental unit is a basement suite in a detached home with the landlord occupying the main floor of the property.

The tenant filed their application for dispute resolution on April 8, 2021, a week after the commencement of the tenancy. In their application the tenant submits in part that the landlord has cut off the heat to the rental unit, have called authorities to malign the tenant's character, used abusive language and ignores the tenant's questions. The tenant writes:

LLD is VIOLATING their OBLIGATIONS as per the Act and thus breaching Tenant's right to peaceful enjoyment. TENANT requests COMPLIANCE & retribution 4 present & cumulative Abu

The landlord issued a 1 Month Notice dated April 28, 2021. The reasons provided on the notice for the tenancy to end is that:

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;*

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

The landlord provided details of the cause as the tenant has repeatedly harassed the landlord and their family members, acted in a disruptive and confrontational manner, caused excessive noise, and threatened the landlord and their family with police and legal actions.

Both parties provided large volume of evidence including documentary submissions, copies of correspondence, video and audio recordings and photographs in support of their respective positions.

The tenant categorically disputes the landlord's evidence and submits that everything the landlord says or has produced is a lie or forgery. The tenant submits that they have endured great hardship and harassment at the hands of the landlord which is far in excess of a breach of their right to quiet enjoyment. The tenant testified that they have taken action against the landlord due to these perceived breaches and they are the wronged party seeking justice.

Analysis

As the parties disagreed on much of the details of the present claim I must first make a determination on credibility. I find that taken in its entirety the landlord is a more credible witness than the tenant. The landlord provided concise, direct responses to questions posed and I found their submissions to consist of facts supported in the documentary evidence and subjective observations which were reasonable and rational.

The tenant provided lengthy rambling testimony filled with accusations against the landlord and self-aggrandizing statements. They often failed to answer direct questions providing evasive lengthy responses which failed to address the question posed. The tenant took simple questions requiring an affirmative or negative as a prompt to launch into a lengthy and wandering diatribe which did not respond to the initial query. I find the tenant to not be a credible witness and where their accounts differ, I prefer the version provided by the landlord.

The parties agree that the landlord has issued a 1 Month Notice dated April 28, 2021 served in person on or about April 29, 2021. The tenant filed their amendment to their application for dispute resolution on May 9, 2021 to dispute the 1 Month Notice.

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. Accordingly, I find that the tenant was within the statutory time limit to dispute the 1 Month Notice.

When a 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.

In the present case among the reasons provided by the landlord for the tenancy to end is that the tenant has significantly interfered with or unreasonably disturbed the landlord and have seriously jeopardized the health, safety or lawful right of the landlord. Based on the totality of the evidence of the parties I find the landlord's reasons for the issuance of the 1 Month Notice has merit.

I accept the evidence that the tenant has caused considerable disturbance to the landlord and their family through their conduct, unwelcome communications and ongoing disruptive behaviour in and about the rental property. I find the evidence, including the tenant's own documentary materials, to demonstrate irrational, unacceptable conduct and behaviour on the part of the tenant that goes beyond what would be reasonable in a tenant-landlord relationship. While the tenant characterizes their actions as merely following the *Act* and seeking services from the landlord, the evidence clearly shows them acting in a persistent manner that would be characterized as unreasonable.

I find the tenant's suggestion that every utterance by the landlord is false to be so extreme a position as to lose all credibility. I find the tenant's position that they are the hapless victims of a campaign of ongoing harassment and bullying by the landlord since the start of the tenancy to have little air of reality. In order to accept the tenant's submission it is necessary to accept that the landlord has entered into a tenancy agreement and immediately began harassing their own tenant and issuing a notice to end the tenancy within a month despite the tenant having acted in a saintly and unrepachable manner.

I find that the documentary evidence and the recordings submitted by the tenant demonstrates the tenant acting in an unreasonable manner, belligerently instigating or escalating confrontations and causing great disturbance to the landlord and their family members. I do not find the tenant's characterization of their conduct as victims or their submission that the landlord is at blame to be supported in the materials.

Based on the totality of the evidence I am satisfied that there is sufficient basis for the issuance of the 1 Month Notice and accordingly dismiss the tenant's application to cancel the notice.

I find that the 1 Month Notice meets the form and content requirements of section 52 of the Act as it is signed and dated by the landlord, identifies the parties, the rental address and provides the reason for the tenancy to end. Accordingly, I 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.

As this tenancy is ending I find it unnecessary to make a determination on the portions of the tenant's application pertaining to an ongoing tenancy.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant submits that the landlord's conduct constitutes a breach of their right to quiet enjoyment and gives rise to a basis for a monetary award. Based on the evidence I am not satisfied that there has been any breach on the part of the landlord that gives rise to an award. I find the tenant's position to have little merit. I find the tenant's submissions consists of subjective grievances and accusations that are not supported in the documentary materials and have little air of reality. I therefore dismiss this portion of the tenant's application without leave to reapply.

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 tenant**. 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: August 6, 2021

Residential Tenancy Branch