



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, CNC, PSF, RP, MNDCT, OLC

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 (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the tenant served the landlord with the notice of hearing package via Canada Post Registered Mail. The tenant stated that she did not serve the landlord with the submitted documentary evidence. The landlord confirmed that she did not submit any documentary evidence for the hearing.

Extensive discussions took place to clarify the lack of evidence submissions by both parties. The tenant submitted only a copy of the 1 month notice and the signed tenancy agreement, but failed to provide copies to the landlord. The landlord confirmed that she was in possession of copies of both documents and consented to proceed with the hearing as she had no issues in responding to the tenant's application.

Further discussions on the tenant's application clarified that none of the other selected issues were related to the request to cancel the 1 month notice. The tenant stated that she was aware of this and had no objections. The landlord stated that she was prepared to go ahead. As such, pursuant to Rule 2.3 of the Rules of Procedure the tenant's remaining issues were dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The hearing proceeded by consent of both parties regarding the tenant's request to cancel the 1 month notice.

I find that both parties have been sufficiently served with the notice of hearing package as per section 71 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

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 / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that the landlord served the tenant with 1 Month Notice to End Tenancy for Cause dated July 27, 2021. The 1 Month Notice sets out an effective end of tenancy date of September 2, 2021 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;

Both parties agreed that the 1 month notice listed the details of the event as:

The tenant, J.S. has continually verbally harassed and starts conflicts with the other residents. The events have happened at...

July 13, 2021 at 6:15pm- J. blocks the tenant from moving past the pool shed and starts bugging him about money.

May 18, 2021- J. call the tenant a coward and a bitch for hiding inside and not wanting to deal with the conflict.

May 13, 2021 at 2:29pm- J. accused on of the tenants as being a spy between the two households. J. threatens to remover her from the house and kick her out.

March 14, 2021 at 12:14am- Yelling coming from J.'s unit upstairs.

The landlord stated that the tenant has harassed anther tenant who broke their lease and moved out. The landlord stated that there has been numerous harassment by the tenant.

The tenant disputes the landlord's claims arguing that the many issues between tenants is regarding maintenance and upkeep of the common areas. The tenant stated that she has on numerous occasions contacted the landlord's agents to assist in resolving tenant issues. The tenant provided undisputed testimony that the landlord has failed to return calls and contact the tenant about these issues. The tenant stated that the disputes between tenants could be resolved with action by the landlord. The tenant argues that that landlord has failed to investigate the issues and respond to them appropriately and has simply sided with the other tenant.

The landlord stated that she has not submitted any evidence in support of the reasons for cause.

Analysis

47(1)(d)(i) of the Act permits a landlord to terminate a tenancy by issuing a 1 Month Notice in cases where a tenant or person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

In this case, both parties confirmed the landlord served the tenant with the 1 month notice dated July 27, 2021.

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

The landlord has claimed that the tenant has harassed another tenant numerous times to the extent that the other tenant has “broken their lease” and moved out. The tenant has disputed this claim arguing that these were attempts by the tenant to engage the other tenant to resolve common property issues which the landlord has failed to act upon leaving it to the tenants. The landlord stated that he was in possession of evidence to support these claims but had failed to provide any. I find on a balance of probabilities that the landlord has failed to establish a claim based upon the reasons for cause on the 1 month notice dated July 27, 2021. On this basis, the 1 month notice dated July 27, 2021 is set aside and cancelled. The tenant’s application to cancel the 1 month notice is granted. The tenancy shall continue.

Conclusion

The tenant’s application to cancel the 1 month notice is granted.

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: November 29, 2021

Residential Tenancy Branch