



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The Bloom Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNC**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for an order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The landlord was represented at the hearing by a program coordinator, NT and the tenant attended the hearing with a social worker, KB. As both parties were present, service of documents was confirmed. The landlord acknowledged service of the tenant’s Notice of Dispute Resolution Proceedings package and the tenant acknowledged service of the landlord’s evidence. Neither party had issues with timely service of documents.

Issue(s) to be Decided

Should the landlord’s notice to end tenancy be upheld or cancelled?

Background and Evidence

The landlord gave the following testimony. The rental unit is a room in a SRO or single room occupancy building. The tenant pays \$603.00 per month for the room which includes meals.

On July 22, 2021, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by posting it to the tenant’s door. A proof of service document was provided into evidence as was a copy of the notice.

The notice gives the following reasons for ending the tenancy:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;

2. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
3. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
4. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/sit or property/park;

The landlord referred me to the 3-page "*history of events and RTA violations*" to describe the incidents leading to the issuance of the notice to end tenancy. On March 12, 2020, the tenant was heard screaming and the police were called. On that day, the tenant was taken to the hospital for observation. Other screaming events cited by the landlord were at 3:00 a.m. on May 20, 2021 and July 19, 2021 at 5:30 a.m. The landlord provided a copy of a letter dated April 22, 2021 reminding the tenant that she signed an agreement to be considerate and respectful of neighbours and that if she continues to disturb other residents, her tenancy would be terminated.

The landlord testified that at the commencement of the tenancy on November 1, 2019, the tenant signed an addendum acknowledging the residence has a non-smoking policy in the building and that smoking is not allowed in any tenant room, dining area, office or other common area except the second floor TV lounge. Any non-compliance may lead to eviction. A copy of the tenancy agreement and addendum were provided as evidence. The landlord testified that since moving in, the tenant has been smoking in her room. She butts out her cigarettes on the wooden night-table or on the flooring of her room. Photographs of the night-table and flooring depicting multiple burn marks was provided as evidence.

On May 5, 2020, a smoke detector went off in the tenant's room. When the fire department attended, the tenant was not in the room, however three overflowing ashtrays were found with a smouldering/burning cigarette located. The same thing happened on July 18, 2021 whereby the smoke detector went off again and the landlord observed discarded cigarette butts all over the room's floor.

The landlord testified that tenant caused extraordinary damage to the unit by smoking and using the wooden night-stand as a place to butt her cigarettes out. The landlord has also replaced the tenant's bed, due to her incontinence. The landlord describes the tenant had defecated in her bed, used an adult incontinence diaper to marginally clean it up, then smeared some feces on the walls. The diapers were then either left in the common area hallways or on the floor of her unit. A photograph of the tenant's wall was

provided which the landlord testified shows feces on the tenant's walls and burn marks where the tenant butts out her cigarettes.

The landlord testified that his facility is simply a residence and that they are not equipped to deal with the tenant's mental health issues. Although he and the tenant's support team met in January of 2021 to find more appropriate supportive housing to the tenant and her complex issues, nothing has happened for her.

The tenant's social worker submits that the tenant has significant mental health concerns such as a schizo-affective disorder. She has recently changed her medication to be injected which the social worker submits has had positive effects. Due to her vulnerability, the tenant is a target for others in the building, and the tenant feels unsupported in conflicts with other residents.

The tenant then gave her testimony. I note that much of the tenant's testimony was not related to the subject of disputing the landlord's reasons for ending the tenancy although I reminded the tenant on at least 3 occasions that I wanted to hear her "side of the story" regarding the specific incidents related by the landlord.

The tenant acknowledged that she has problems with screaming at night. During the hearing, she asked to be reminded when the screaming started and when the landlord advised the first complaint was March 11, 2020, the tenant acknowledged it's accuracy. She testified she had screaming problems at a previous residence which was brought on by stress, mismedications and being off her medication. The screaming comes and goes, and the tenant stated, "I know it hasn't gone yet". She places the blame on mistreatment by doctors. The tenant was emphatic in her testimony that she suffers from "vibrations" that her doctors don't believe. The tenant testified that she has gone to her neighbours' and apologized for screaming but they either said they didn't hear anything or accepted her apology.

The tenant also acknowledges smoking in her room, putting the cigarettes out on the night table supplied by the landlord. She testified she got "lazy" and stopped taking care of herself. The landlord can take the damage to the table off her security deposit, as it's a "write-off". The damage to the floors is because she has become severely lazy. Her weight has gone up and she has a hairline fracture in her hip.

The tenant then gave testimony about being stressed out about living in this building and how the landlord and people in the mental health field treat her and others in the building as "subhuman" and speak to them as if they were children. The tenant then

gave testimony about being served “white” food such as white bread, white rice, white potatoes by the landlord.

When I asked the tenant to direct her testimony to the landlord’s allegations such as not allowing home support workers into her unit, the tenant gave a diatribe on missing items from her room such as a winter coat, a mat, a notebook and one of a pair of runners. The tenant blames the home support workers on the theft, although she did not provide any evidence to support this claim.

Analysis

Pursuant to sections 88 and 90 of the *Act*, I find that the tenant is deemed served with the 1 Month Notice to End Tenancy for Cause on July 25, 2021, three days after it was posted to the tenant’s door on July 22, 2021. The tenant filed to dispute the notice four days later, on July 29, 2021.

Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause, the tenant may, within ten days, dispute it by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files the application, 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 when the landlord gave Notice to the tenants, the tenancy should be ended for the reasons identified in the 1 Month Notice.

During the hearing, the tenant acknowledges smoking in her room despite signing the tenancy agreement addendum prohibiting smoking in the room. The landlord argues that such behaviour seriously jeopardizes the health, safety or lawful rights of other occupants and the landlord. I find I must agree with the landlord’s argument.

The tenant testified that she gets “lazy” and puts her cigarettes out on the wooden table beside her bed or on the floor of her unit. Applying a lit cigarette to a wooden table endangers the safety of the building occupants for obvious reasons. The landlord has provided evidence of the smoke alarms going off twice for cigarettes that the tenant likely thought were put out but weren’t. I am especially concerned when the tenant was not even in her unit when the smouldering cigarette caused the fire alarm to go off. The potential for harm to the remainder of the building occupants is too high for this tenancy to continue as it is.

Likewise, the tenant admitted to having problems with “screaming”. She does not deny that this happens during the night while other occupants of the building are trying to sleep. In fact, the tenant testified that she attempted to apologize to her neighbours for screaming. I find that the multiple instances of screaming noted in the landlord’s “history

of events” constitute a significant interference or unreasonable disturbance to the other occupants of the building.

Lastly, the landlord alleges the burns to the night table and the floors, together with the bed are examples of the tenant causing extraordinary damage to the unit or putting the landlord’s property at significant risk. Once again, I find the landlord has provided sufficient evidence to satisfy me this is happening. The tenant agrees that she caused the burns to the table and the flooring and walls, blaming it on her “laziness”. I accept the landlord’s testimony that the furniture is provided as part of the rental unit and that it was irreparably damaged by the tenant.

I find that the landlord has satisfied me that the tenancy should end for all the reasons stated on the notice to end tenancy and I uphold it.

Section 55 states that 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 the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the landlord’s notice to end tenancy and find it complies with form and content provisions as set out in section 52. As such, I grant the landlord an Order of Possession. The effective (move-out) date has passed, so I the Order of Possession is effective 2 days after service upon the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: November 30, 2021

Residential Tenancy Branch