



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, 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 One Month Notice) pursuant to section 47; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

At the outset of the hearing the parties advised that the name listed as the respondent and that it should be corrected. Pursuant to section 64(3)(c) the application is amended and the correct name of the respondent is reflected in this decision.

Issue(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to an order compelling the landlord to comply with the Act, regulation, or tenancy agreement?

Background and Evidence

The landlord gave the following testimony. The tenancy began on June 25, 2020 with the rent of \$508.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on July 2, 2021 for the following reasons:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

BW testified that the tenant's son has verbally threatened staff and other tenants in the building on numerous occasions. BW testified that the tenant's son is not a resident of the building but is still sneaking into the building early in the morning or late at night when staff isn't present. BW testified that video surveillance shows the inappropriate behaviour on a repeated basis. BW testified that this is a senior complex and that the

tenants are fearful of the tenant's son. BW testified that the tenant's son has spit at staff and other tenants, smashed holes in the wall of common areas and has written racial hate rhetoric on walls in common areas. BW testified that despite giving three written letters to the tenant to have his son cease and desist, there has not been an improvement.

FM testified that the tenant's son made inappropriate, racial, and vulgar comments to another elderly woman in the complex. FM testified that the tenant's son doesn't wear a mask in the common areas despite it being a Provincial Health order and that it is a high risk building with residents 65 years and older. FM testified that she is terrified of the tenant's son and still sees him in the building on a regular basis.

The tenant gave the following testimony. The tenant testified that his son was under the influence of drugs or alcohol when all the incidents occurred. The tenant testified that it would be very difficult for him to move due to his poor health, being a senior and having a paralyzed foot. The tenant testified that BW is vindictive and is doing this to get him removed from the building.

Analysis

When a landlord issues a notice under Section 47 of the Act, they bear the responsibility in providing sufficient evidence to support the issuance of that notice. The landlord provided extensive documentation, video evidence, and witness statements. The tenant did not dispute the allegations made, but rather, attempted to minimize them and insinuate that they were minor in nature. When given the opportunity to address and respond to the notice, the tenant was more concerned about attacking BW and about issues that are not part of this hearing.

When I advised the tenant that it would be in his best interest to address the claims made in the Notice to End Tenancy, he ignored that suggestion and again, attacked the landlord. Based on the above, and on a balance of probabilities, I find that the landlord has provided sufficient evidence to satisfy me of all three of the grounds that they issued the notice on. I find that the tenancy is over.

Section 55 of the *Act* reads in part 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 find that the landlord's 1 Month Notice was issued on the correct form and included all the required information in order to comply with section 52 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the 1 Month Notice and issue the landlord an Order of Possession in accordance with section 55(1) of the *Act*.

Conclusion

I dismiss the tenant's application to cancel the 1 Month Notice. I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. The tenant's application is dismissed in its entirety without leave to reapply.

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 16, 2021

Residential Tenancy Branch