



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, FFT, 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;
- authorization to recover the filing fee from the landlord pursuant to section 72; and
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62.

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. Each party represented themselves with assistance.

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.

Preliminary Issue – Service of Documents

The tenant confirmed receipt of the landlord's 1 Month Notice dated June 30, 2021 and testified they served the landlord with their application and materials on or about July 9, 2021. The landlord confirmed receipt of the tenant's materials.

Based on the undisputed testimonies I find the tenant duly served with the 1 Month Notice on June 30, 2021 in accordance with section 88 of the *Act* and the landlord

served with the tenant's materials on July 9, 2021 in accordance with sections 88 and 89 of the *Act*.

The landlord testified that they served the tenant with their evidentiary materials by having an agent personally deliver them on or about October 29, 2021. The tenant disputed that they were served with the landlord's evidence on that date or at all.

I find that the landlord provided cogent, believable testimony regarding service by their agent on the tenant. The tenant denied they were served with the evidence but provided no explanation of why they have not received the materials. Upon review of the landlord's evidence it appeared to consist primarily of materials that would have been received by the tenant on prior occasions such as earlier Notices to End Tenancy and correspondence. The tenant, despite making reference to some of the correspondence in their subsequent testimony, disputed that they had received any of the materials on prior occasions.

Taken in its entirety I do not find the tenant to be a credible witness. They provided testimony that contradicted itself and provided lengthy, rambling and irrelevant responses to direct questions. I find that the landlord is a more credible witness who provided a consistent and believable version of events which was supported in their documentary materials.

Based on the testimonies I find that the tenant has been sufficiently served with the landlord's materials on October 29, 2021 in accordance with section 71(2)(b) 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?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Is the tenant entitled to recover their filing fee from the landlord?

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 October 2020. The monthly rent is \$1,000.00 payable on the first of each month. A security deposit of \$500.00 was paid at the start of the tenancy and is still held by the landlord. The rental unit is a suite in a multi-unit building with 22 units. The tenant was issued a previous 1 Month Notice dated February 23, 2021. That notice was cancelled in accordance with an agreement between the parties on May 20, 2021.

The landlord submits that subsequent to the agreement between the parties the tenant and their family members have engaged in aggressive and threatening behaviour against the landlord's employees and agents including getting into altercations with the cleaning and maintenance staff. The landlord submitted into documentary evidence copies of warning letters issued to the tenant as well as complaints received regarding their behaviour.

The landlord testified that they have received multiple complaints about the tenant speaking to staff in a belligerent and rude manner, acting hostile and threatening and interfering with their duties. The landlord said they have issued warning letters to the tenants throughout the tenancy and issued the previous 1 Month Notice to End Tenancy for similar behaviour. The landlord said that the previous 1 Month Notice was withdrawn as the tenant promised to apologize to any staff members affected and rectify their behaviour. The landlord submits that despite the agreement the tenant and their family members have continued to act in an unacceptable manner giving rise to the present 1 Month Notice.

A copy of the 1 Month Notice was submitted into evidence. The reasons provided on the notice for the tenancy to end is:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *put the landlord's property at significant risk.*

The tenant disputes that they have acted inappropriately. They confirmed that there was an incident when the tenant's spouse and the cleaning staff got into an altercation.

The tenant also testified about an incident where they called the police about neighbors, talked about how they refrain from smoking and marijuana use and submit that their neighbors are disreputable individuals.

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 confirmed receipt of the 1 Month Notice on June 30, 2021 and filed their application to dispute the notice on July 9, 2021. 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 or other occupants. 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 am satisfied on a balance of probabilities that there have been multiple incidents of the tenant and their family members engaging in hostile and aggressive altercations with the landlord and their staff. The testimony of the parties confirm there have been incidents of shouting at cleaning staff. I find the landlord's description of these incidents as aggressive and threatening to be credible. I find that shouting at staff to be an inherently threatening and hostile action that is designed to frighten, belittle and intimidate others. I find the conduct to be unreasonable when directed at the landlord's staff who are merely conducting their duties. I find the repeated instances of these interactions to be properly characterized as a significant interference. I accept the testimony of the landlord that the multiple instances have caused an atmosphere of unease and fear of personal safety among their staff.

I find much of the tenant's other submissions to be irrelevant to the matter at hand and not an excuse for their interference and disturbance of the landlord's staff.

I find that the 1 Month Notice of June 30, 2021 complies with the form and content requirements of section 52 of the *Act* as it is in the prescribed form, correctly identifies the parties the rental unit address and is signed and dated by the landlord.

Consequently, 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.

As the tenant was unsuccessful in their application, they are not entitled to recover their filing fee from the landlord.

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 tenants 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: November 12, 2021

Residential Tenancy Branch