



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on July 22, 2021 (the “Application”). The Tenant applied to dispute a One Month Notice to End Tenancy for Cause dated July 14, 2021 (the “Notice”).

The Tenant appeared at the hearing. The Landlord appeared at the hearing with L.S. to assist. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and oral testimony of the parties. I have only referred to the evidence I find relevant in this decision.

I note that I had to mute the Landlord and L.S. during the hearing pursuant to rule 6.10 of the Rules because L.S. continued to interrupt the proceeding after being warned not to do so.

Issues to be Decided

1. Should the Notice be cancelled?
2. If the Notice is not cancelled, is the Landlord entitled to an Order of Possession?

Background and Evidence

The parties agreed on the following. There is a verbal tenancy agreement in this matter. The tenancy started in August of 2015 and is a month-to-month tenancy. Rent is \$850.00 per month due on the first day of each month. The Tenant paid half a month's rent as a security deposit.

The Notice was submitted as evidence. The Notice is addressed to the Tenant and refers to the rental unit. The Notice is signed and dated by the Landlord. The Notice has an effective date of August 14, 2021. The grounds for the Notice are as follows:

1. Tenant or a person permitted on the property by the Tenant has:
 - a. Significantly interfered with or unreasonably disturbed another occupant or the Landlord.
 - b. Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.
2. Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.
3. Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

The parties agreed the Notice was served, and received by the Tenant, in person July 14, 2021.

In relation to the first and second grounds, the Landlord and L.S. testified as follows.

The Tenant assaulted another tenant who lives down the hall. The Tenant has been threatening the other tenant on a regular basis. The Landlord has had to walk the other tenant down the hall to their unit because they are scared to go past the Tenant's unit.

Other tenants are scared to come out of their units because of the Tenant and their drinking.

There have been tenants in four units, including the Tenant, bickering between themselves. The bickering usually starts due to the Tenant being intoxicated and “lippy”, which they regularly are. L.S. has witnessed the Tenant being intoxicated and “lippy”. The fighting between the tenants got worse and all were issued notices to stop fighting or they will have to move. At one point, the Tenant assaulted the Landlord’s son who was a tenant of the building. The Landlord issued notices to end tenancy to both the Tenant and their son. The Landlord’s son moved pursuant to the notice to end tenancy. L.S. was not present when the fight between the Tenant and Landlord’s son occurred, all they know is that the Tenant ran down the stairs and punched the Landlord’s son in the face.

In relation to the third ground, L.S. advised that this relates to the Tenant failing to comply with the Landlord’s direction to stop fighting with other tenants. L.S. confirmed the RTB has not issued an Order in relation to this issue.

The Landlord submitted letters from three different tenants in the building outlining their issues with the Tenant.

The Tenant testified as follows. They were down on the sidewalk when the Landlord’s son came and “took a swing at” them. The Landlord’s son hit them and then they knocked the Landlord’s son down. They only defended themselves. Another tenant was threatening them and calling them up the stairs to fight. They tried to defuse the situation. The incident started over plants and whether the Tenant or the other tenant were going to take care of the plants. The other tenant “fingers” them, swears at them and calls them names. Every time they go out of town, other tenants are rude to their mom and sister. They are quiet and the neighbours all respect them other than the few named.

The Tenant submitted videos which I understand to be two other tenants fighting with the Tenant’s mom. The Tenant submitted text messages from a sibling of one of the other tenants in relation to the issues between the Tenant and their sister. The Tenant submitted letters from their mom and sister.

Analysis

The Notice was issued pursuant to section 47 of the *Act* and the following subsections:

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

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant...

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that...

- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property...

(f) the tenant has not complied with an order of the director within 30 days of the later of the following dates:

- (i) the date the tenant receives the order;
- (ii) the date specified in the order for the tenant to comply with the order.

The Tenant had 10 days to dispute the Notice pursuant to section 47(4) of the *Act*. There is no issue that the Tenant received the Notice July 14, 2021 because the parties agreed on this. The Application was filed July 22, 2021, within time.

Pursuant to rule 6.6 of the Rules, it is the Landlord who has the onus to prove the Notice. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept that there has been verbal and physical fighting between the Tenant, their mom and other tenants. I understand from the Tenant's mom's letter that they were visiting the Tenant and/or the Tenant's sister when incidents with other tenants occurred. Based on the videos submitted by the Tenant, I find that both the Tenant's mom and the other tenants said inappropriate things to each other. The Tenant did not deny that there was a physical altercation between them and the Landlord's son, although the Tenant submitted that they were simply defending themselves. I find that the evidence shows that multiple tenants in the building, including the Tenant, have been fighting with each other.

I find the three letters submitted by the Landlord more convincing than the letters submitted by the Tenant's mom and sister because the three letters are from three other tenants in the building, all of whom live in different rental units and who are not related. The Tenant has only submitted letters from their mom and sister, both relatives who I find would be less objective given the familial relationship. In the letters submitted by the Landlord, the three tenants list issues with the Tenant such as the use of foul language, intimidation, aggression, threats of violence, annoyances, no regard for the peace and serenity of the neighbourhood, the Tenant being a nuisance and abusive. The tenants talk about being scared of the Tenant and not being able to enjoy their rental units because of the Tenant. I accept the outline of issues with the Tenant because the testimony of the Landlord and L.S., as well as the three letters, tend to support each other.

I also note that the Landlord evicted their son due to the incident between them and the Tenant. I find it noteworthy that the Landlord has treated the two people involved in the altercation equally, despite one being their own son.

Based on the testimony of the Landlord and L.S., as well as the three letters in evidence from other tenants, I accept that the Tenant or persons permitted on the residential property by the Tenant have significantly interfered with or unreasonably disturbed other occupants of the residential property. I find the issues raised by the Landlord, L.S. and the other three tenants serious. I am satisfied the issues warrant ending the tenancy.

I find the Landlord had grounds to issue the Notice.

I have reviewed the Notice and find it complies with section 52 of the *Act* as required by section 47(3) of the *Act*.

Given the above, I dismiss the dispute of the Notice without leave to re-apply and uphold the Notice. Given I have upheld the Notice based on the first ground, there is no need to consider the remaining grounds.

Section 55(1) of the *Act* requires an arbitrator to issue a landlord an Order of Possession when a tenant disputes a notice to end tenancy, the dispute is dismissed or the notice is upheld and the notice complies with section 52 of the *Act*.

I have dismissed the dispute of the Notice and upheld the Notice. I have found the Notice complies with section 52 of the *Act*. Therefore, pursuant to section 55(1) of the *Act*, I issue the Landlord an Order of Possession. The Landlord asked that the Order of Possession be effective one month after service on the Tenant.

Conclusion

The Notice is upheld and the dispute is dismissed without leave to re-apply. The Landlord is issued an Order of Possession effective one month after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 29, 2021

Residential Tenancy Branch