



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.
and [tenant name suppressed to protect privacy]

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 Tenants on August 12, 2021 (the “Application”). The Tenants applied to dispute a One Month Notice to End Tenancy for Cause dated August 04, 2021 (the “Notice”).

The Tenants appeared at the hearing with J.I. to assist. The Agent for the Landlord (the “Agent”) and Resident Manager appeared at the hearing for the Landlord. 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.

The Agent provided the correct name of the Landlord which is reflected in the style of cause.

The Tenants submitted a copy of the Notice as their evidence. The Landlord submitted evidence. I confirmed service of the hearing package and Landlord’s 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.

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

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate. The tenancy started March 15, 2014 and was for a fixed term ending March 31, 2015. The tenancy then became a month-to-month tenancy. Rent at the start of the tenancy was \$905.00 due on the first day of each month. The Tenants paid a \$452.50 security deposit.

The Notice was submitted as evidence. The Notice is addressed to the Tenants and refers to the rental unit. The Notice is signed and dated by an agent for the Landlord. The Notice has an effective date of September 30, 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.

The Tenants did not raise an issue with the form or content of the Notice when asked.

The parties agreed the Notice was served, and received by the Tenants, August 04, 2021.

The Agent and Resident Manager provided the following testimony and submissions.

The Landlord has received repeated complaints from other tenants living in the building about the Tenants for well over a year. The tenants of the building are families with small children, single people, seniors and elderly people and they have been concerned for their safety over the last year and a half. There has been illegal activity occurring on the premises. People have been coming and going from the rental unit and screaming towards the balcony at all times of the night. Other tenants have reported fighting and domestic disputes occurring in the rental unit. The Landlord received a further

complaint December 07, 2021 about the Tenants being involved in drug dealing and non-tenants having keys to the building. The Resident Manager has seen people who are not on the tenancy agreement accessing the building due to the Tenants giving them keys. The Landlord sent the Tenants two warning letters about these issues which are in evidence.

The Agent sought an Order of Possession effective two days after service on the Tenants.

The Landlord submitted the following documentary evidence:

- An email dated July 15, 2021 stating that the Tenants have been a problem for quite some time and detailing disturbances.
- A warning letter dated July 20, 2021 from the Landlord to the Tenants about causing disturbances.
- An email dated August 03, 2021 about the Tenants causing a disturbance. The email notes that the author will be going to the RTB if nothing changes as the situation is getting to be too much for them.
- An email dated September 20, 2021 with complaints about the Tenants and their behaviour.
- A warning letter dated September 21, 2021 from the Landlord to the Tenants about causing disturbances.
- An email dated October 12, 2021 about the Tenants causing a disturbance
- A letter dated October 22, 2021 with complaints about the Tenants.
- An email dated November 10, 2021 about a police report being filed regarding drug activity at the rental unit which has caused thefts, disturbances and danger to other tenants.
- A complaint dated December 01, 2021 about the Tenants having taken lamps from another tenant's storage locker that was broken into.

The Tenants and J.I. provided the following testimony and submissions.

The complaints referred to are just other tenants' opinions and speculations. It is speculative that the Tenants are involved in drug dealing. The police were contacted about the Tenants and found no evidence of drugs. All of the evidence suggesting the Tenants are involved in drug dealing is speculative. The Tenants do have different hours because they work a "graveyard shift". It is not true that people are yelling and screaming in relation to the rental unit. There was one incident when Tenant A.W. was

trying to get into the building because they had lost their key. Police have not come to the rental unit due to yelling, screaming or domestic disputes. J.I. is a friend of the Tenants and has not personally witnessed the issues raised by the Landlord. The Tenants get along with most of the other tenants in the building. The Tenants have never had an issue with other tenants in the building. There has been no unreasonable disturbance by the Tenants. The general warning letters sent to the Tenants by the Landlord do not assist, the Tenants need to know specific incidents.

The only documentary evidence submitted by the Tenants is the Notice.

Analysis

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

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,

The Tenants had 10 days to dispute the Notice pursuant to section 47(4) of the *Act*. There is no issue that the Tenants received the Notice August 04, 2021. The Application was filed August 12, 2021, within time.

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

Based on the complaint emails and letters as well as the warning letters sent from the Landlord to the Tenants, I am satisfied on a balance of probabilities that the Tenants have significantly interfered with or unreasonably disturbed other occupants of the residential property by doing the following:

- Having lamps that were taken when another tenant's storage locker was broken into

- Excessive noise, swearing and yelling in the rental unit
- Dropping cans, garbage and plants from their balcony onto the lawn and other balconies
- Visitors yelling to be let in at all hours of the night
- Domestic arguments
- Suspected drug activity causing thefts, disturbances and perceived danger to other tenants
- Banging around in the rental unit at 2:00 a.m.
- Being loud at odd times in the evening, vacuuming from 12:30 to 3:30 a.m., fighting, using profanity, banging things around, visitors coming to the balcony at all hours asking to be let in, throwing garbage on other tenant's balcony, throwing plants on other tenant's balcony
- Being extremely loud at 2:40 a.m., moving and banging around, dropping heavy objects on the floor of the rental unit
- People yelling up at the balcony to be let in, screaming, swearing, visitors hiding behind bushes and looking into other units
- Visitors coming onto the property and throwing things up to the balcony, the Tenants throwing things off their balcony to visitors, visitors knocking on other tenant's doors, visitors calling other tenants to be let into the building, people coming and going all hours of the day and night

I acknowledge that some of the complaints submitted by the Landlord were made after the Notice was issued; however, I find the complaints support that the Tenants have been causing disturbances for a lengthy period and show a pattern of behaviour and issues caused by the Tenants.

I do not accept that the complaints are opinions and speculations, the complaints are other tenants' observations. It may be speculation that the Tenants are involved in drug activity; however, the point is that the Tenants' behaviour and the behaviour of their visitors is disturbing other tenants, whether it is drug related or not. It may also be that the Tenants work at night; however, this does not justify the disturbances other tenants have complained about because the Tenants could work at night without causing the types of disturbances outlined in the complaints. It is not relevant whether police have attended the rental unit due to disturbances, other tenants are not required to call the police over the issues outlined and the Landlord is entitled to end this tenancy for significant interference and unreasonable disturbance whether the police have been involved with the Tenants or not. I do not find the testimony of J.I. that they have not witnessed the issues complained of sufficient to overcome the documented complaints

and warning letters already outlined. I note that neither the Tenants nor J.I. mentioned whether J.I. lives in the building and therefore I am not satisfied J.I. is aware of the day-to-day occurrences at the rental unit. I acknowledge that the Tenants dispute the allegations; however, I find the Landlord has submitted sufficient documentary evidence to prove on a balance of probabilities that the Tenants have been disturbing other tenants in the building.

Given the above, I am satisfied the Landlord has proven the grounds for 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.

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 effective two days after service on the Tenants.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenants. This Order must be served on the Tenants. If the Tenants do 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: December 17, 2021

Residential Tenancy Branch