



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Canadian Mental Health Association - Port
Alberni and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied for an order to cancel a One Month Notice to End Tenancy For Cause, dated October 28, 2021 (the One Month Notice).

The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified they served their Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Landlord in person on an unknown date. The Landlord confirmed they received the documents from the Tenant in person on November 3, 2021. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified they served their responsive evidence on the Tenant in person on December 3, 2021. The Tenant confirmed they received the documents. I find the Landlord served the Tenant in accordance with section 89 of the Act.

Issues to be Decided

Is the Tenant entitled to an order to cancel the One Month Notice?
If not, is the Landlord entitled to an order of possession?

Background and Evidence

The parties agreed on the following particulars of the tenancy. It began on November 13, 2019; rent is \$375.00, and is paid by direct deposit by the Ministry; and the Tenant paid a security deposit of \$187.50, which the Landlord still holds.

The Landlord testified they served the One Month Notice on the Tenant by sliding it under the door of the rental unit on October 28, 2021. The Tenant testified they received the Notice the same day. A copy of the One Month Notice was submitted as evidence.

The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because:

- 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;
 - put the Landlord's property at significant risk; and
- the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord testified that the Tenant has a history of disconnecting the smoke detector in their unit, and that not tampering with the smoke detector is a key rule in the residence.

A copy of the tenancy agreement and addendum was submitted as evidence; Rule 1 of the addendum is that residents are not to tamper with smoke detection or fire suppression devices. The addendum notes that "failure to comply with the [rules and regulations] will provide the landlord with cause to end the tenancy."

The Landlord testified that periodic inspections are done in the residential units.

The Landlord provided the following testimony regarding the Tenant disconnecting their smoke detector, and warnings the Landlord provided as a result. On January 4, 2021, during an inspection the Tenant was present for, it was discovered they had disconnected the smoke alarm. The Tenant was reminded this was not allowed. On January 12, 2021, during an inspection the Tenant was not present for, it was again discovered they had disconnected the smoke alarm. A written remediation request was provided to the Tenant on January 22, 2021, a copy of which was submitted as evidence. On May 4, 2021, during an inspection the Tenant was present for, it was

found they had disconnected the smoke alarm. The Tenant was reminded that not tampering with the smoke detector was the number one rule in place at the residence. On October 25, 2021, there was an incident in which, upon smelling smoke, the Landlord determined that the Tenant had a lit cigarette burning in cardboard on the floor of their rental unit. The Landlord testified that as they entered the Tenant's unit, papers next to the cigarette and cardboard caught fire. The Landlord testified that the Tenant had again disconnected the smoke detector, appeared to be under the influence, and appeared to not comprehend the seriousness of the situation. The Landlord testified that the Tenant's unit had filled with smoke, and the Landlord expressed concern for the safety of the other 41 tenants residing in the building. A copy of the incident report summarizing the event was submitted as evidence.

The Landlord's documentary evidence also includes copies of periodic condition inspection reports, noting that the smoke detector has been disconnected.

The Landlord stated they do not wish to evict people, but that they are concerned by the Tenant's repeated pattern of disconnecting their smoke alarm, and are concerned how that could potentially impact the other residents and the property.

The Tenant testified they need a place to stay until they are able to find a new place. The Tenant testified it has been challenging for them, as their whole family moved out of town soon after the Tenant arrived there. The Tenant testified they have no other place to go.

Analysis

Based on the Landlord's testimony, I accept that the One Month Notice was served on the Tenant by sliding it under the door of the rental unit on October 28, 2021. I note that sliding a document under the door of a rental unit is not an accepted method of service under the Act. I accept the Tenant's testimony that they received the One Month Notice the same day, and find the Tenant was sufficiently served the One Month Notice on October 28, 2021, in accordance with section 71 of the Act. I find the One Month Notice meets the form and content requirements of section 52 of the Act.

Section 47 of the Act states that a tenant receiving a One Month Notice may dispute it within 10 days after the date the tenant receives the Notice. As the Tenant received the Notice on October 28, 2021 and applied to dispute the Notice on November 3, 2021, I find the Tenant met the 10-day deadline.

Section 47 of the Act states that a landlord may end a tenancy if a tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord, or put the Landlord's property at significant risk.

I accept the Landlord's submitted evidence, and the Landlord's affirmed, undisputed testimony that the Tenant has repeatedly disconnected their smoke alarm, despite repeated warnings from the Landlord, and that there was an incident in which a fire began in the Tenant's rental unit while the smoke detector was disconnected. I find the Tenant's pattern of behaviour and this incident seriously jeopardized the health and safety of other occupants, and put the Landlord's property at significant risk.

Therefore, I uphold the One Month Notice, and find that the Landlord is entitled to an order of possession.

Conclusion

The Tenant's application is dismissed. The One Month Notice is upheld.

The Landlord is granted an order of possession which will be effective two days after it is received by the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed and enforced as an order of the Supreme Court of British Columbia.

Dated: December 22, 2021

Residential Tenancy Branch