



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding QUADRA ISLAND GENERAL STORE and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC, FFT

Introduction

This hearing was convened in response to the Tenants' Application for Dispute Resolution, in which the Tenants applied to cancel a One Month Notice to End Tenancy for Cause and to recover the fee for filing this Application for Dispute Resolution.

The female Tenant stated that on September 16, 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch in September of 2021 was sent to the Landlord, via email. The Landlord acknowledged receiving these documents and the evidence was accepted as evidence for these proceedings.

In December of 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that on December 30, 2021 this evidence was served to the email address provided by the female Tenant. The female Tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On December 31, 2021, the Tenants submitted additional evidence to the Residential Tenancy Branch. The female Tenant stated that this evidence was served to the email address provided by the Agent for the Landlord. The Agent for the Landlord acknowledged receipt of this evidence. Although this evidence was not served to the Landlord in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure, the Agent for the Landlord stated that she has had sufficient time to consider the evidence and it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside?

Background and Evidence

The female Tenant stated that this tenancy began on March 15, 2020. The Agent for the Landlord stated that the tenancy began prior to her becoming an agent for the Landlord and she does not know when the tenancy began.

The Agent for the Landlord and the Tenants agree that:

- On May 10, 2021 the Tenants named on this Application for Dispute Resolution signed a tenancy agreement with the Landlord;
- The Tenant with the initials “AM” on this Application for Dispute Resolution is identified by the initials “BM” on the tenancy agreement;
- Rent of \$450.00 is due by the first day of each month;
- On August 31, 2021 a One Month Notice to End Tenancy for Cause was personally served to the female Tenant;
- The One Month Notice to End Tenancy for Cause declares that the tenancy is ending because the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful interest of another occupant or the landlord;
- The One Month Notice to End Tenancy for Cause declares that the rental unit must be vacated by September 30, 2021;
- The One Month Notice to End Tenancy for Cause misspells the first name of the female Tenant;

- The One Month Notice to End Tenancy for Cause provides the incorrect surname of the male Tenant;
- The female Tenant advised the Landlord, via email, that the names on the One Month Notice to End Tenancy for Cause were incorrect;
- The One Month Notice to End Tenancy for Cause was amended to reflect the correct names of the Tenants;
- The amended One Month Notice to End Tenancy for Cause was emailed to the female Tenant on September 15, 2021; and
- The One Month Notice to End Tenancy for Cause declares that the Landlord is ending the tenancy because the male Tenant assaulted the Landlord.

The female Tenant stated that when she received the One Month Notice to End Tenancy for Cause with the incorrect names on it, she understood the document was intended for her and the male Tenant.

The Agent for the Landlord stated that the Landlord wishes to end this tenancy because on August 18, 2021 the male Tenant threw a cup at an individual with the initials “WP”, whom she describes as the Landlord.

The Landlord submitted a video recording, dated August 18, 2021. The Agent for the Landlord and the female Tenant agree that this video shows the male Tenant throwing a cup at “WP”. The parties agree that the incident occurred in the store that is located beneath the rental unit.

The Agent for the Landlord stated that:

- The male Tenant threw a ceramic cup at “WP”, which struck him in the head; and
- The subsequent injury to “WP” resulted in 12 stitches.

The male Tenant stated that:

- he has not seen the video, dated August 18, 2021;
- on August 18, 2021 he had a conversation with “WP” in regard to the Landlord’s attempts to end the tenancy over an alleged non-payment of rent, which he defines as an “illegal eviction”;
- after that conversation he threw a cup at “WP”;
- he does not know where the cup struck “WP”, although he understands “WP” was injured;
- he has been charged for the incident and is currently awaiting sentencing;
- he is no longer living in the rental unit;

- he does not intend to live in the rental unit in the future;
- he will not apologize for his anger;
- the female Tenant has undergone a horrible series of events, including the dispute over rent payments and a divorce; and
- it would be a gross miscarriage of justice if the female Tenant's tenancy was ended.

The female Tenant stated that:

- the incident on August 18, 2021 occurred because the Landlord had previously advised the Tenants that the Landlord had no record of a tenancy agreement or of rent being paid;
- she has a witness who will testify that the male Tenant is no longer living in the unit; and
- the Tenants do not need to call this witness if the male Tenant's current place of residence is not in dispute.

Analysis

On the basis of the undisputed evidence, I find that the Tenants and the Landlord have a written tenancy agreement, which names the Landlord as a business entity.

On the basis of the evidence submitted by the Landlord, I find that the individual with the initials "WP" represents the business entity that is named as a Landlord on the tenancy agreement and that "WP" is a landlord, as that term is defined by the *Residential Tenancy Act (Act)*.

Sections 47(1)(d)(i) and (ii) of the *Act* permits a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and/or seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

On the basis of the undisputed evidence, I find that on August 31, 2021 the female Tenant was personally served with a One Month Notice to End Tenancy for Cause, which declares the Landlord is ending the tenancy pursuant to sections 47(1)(d)(i) and (ii) of the *Act*.

Section 47(3) of the *Act* stipulates that to be effective a One Month Notice to End

Tenancy for Cause must comply with section 52 of the *Act*.

I find that the One Month Notice to End Tenancy for Cause which was served on August 31, 2021 complies with section 52 of the *Act*, which requires the One Month Notice to End Tenancy for Cause to:

- be signed and dated by the landlord or tenant giving the notice;
- give the address of the rental unit;
- state the effective date of the notice; and
- be in the approved form.

I specifically note that section 52 of the *Act* does not specify that the names of the Tenant's must be spelled correctly on the Notice to End Tenancy. While I accept that the female Tenant's first name was spelled incorrectly on the One Month Notice to End Tenancy for Cause that was served on August 31, 2021, on the basis of the female Tenant's testimony I find that she understood she was the intended recipient of the One Month Notice to End Tenancy for Cause.

While I accept that the male Tenant was incorrectly identified on the One Month Notice to End Tenancy for Cause that was served on August 31, 2021, on the basis of the female Tenant's testimony I find that the Tenants understood he was the intended recipient of the One Month Notice to End Tenancy for Cause.

I find that any confusion arising from the names on the One Month Notice to End Tenancy for Cause was clarified when a corrected copy of the One Month Notice to End Tenancy for Cause was emailed to the female Tenant on September 15, 2021. As the Tenants understood that they were the intended recipients of the One Month Notice to End Tenancy for Cause and they were provided with a corrected copy on September 15, 2021, I find that the errors on the One Month Notice to End Tenancy for Cause does not invalidate the One Month Notice to End Tenancy for Cause.

On the basis of the undisputed evidence, I find that on August 18, 2021 the male Tenant threw a cup at the Landlord with the initials "WP" and that the "WP" sustained a significant injury when the cup struck him in the head. I find that this level of violence would unreasonably disturb most people. I therefore find that the Landlord has grounds to end this tenancy, pursuant to section 47(1)(d)(i) of the *Act*, and I dismiss the Tenants' application to set aside the One Month Notice to End Tenancy for Cause.

In adjudicating this matter, I have placed no weight on the Tenants' submission that

prior to the incident on August 18, 2021 the Landlord had informed the Tenants that the Landlord had no record of a tenancy agreement or of rent being paid. Even if the Landlord incorrectly informed the Landlord there was no record of rent being paid, the male Tenant's behaviour on August 18, 2021 was an entirely inappropriate response to any dispute regarding the tenancy.

Section 55(1) of the *Act* stipulates that 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 the landlord's notice to end tenancy complies with section 52 of the *Act* and I, during the dispute resolution proceeding, dismiss the tenant's application or upholds the landlord's notice.

As I have dismissed the Tenants' application to set aside the One Month Notice to End Tenancy, I must grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

On the basis of the undisputed evidence, I find that the male Tenant is no longer living in the rental unit and that he currently does not plan on living in the unit. I find that this submission is not relevant to my decision to end this tenancy. Regardless of the male Tenant's current plans, I find that he is legally entitled to return to the rental unit if this current tenancy continues, given that he is named on the tenancy agreement.

I specifically note that this decision does not prevent the Landlord and the female Tenant from entering into a new tenancy agreement that names the Landlord and the female Tenant if both parties wish to do so.

As the Tenants have failed to establish the merit of their Application for Dispute Resolution, I dismiss their application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Application for Dispute Resolution is dismissed.

I grant the Landlord an Order of Possession that is effective on **January 31, 2022**. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia, 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 *Residential Tenancy Act*.

Dated: January 16, 2022

Residential Tenancy Branch