



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The Tenant applies to cancel a One-Month Notice to End Tenancy dated October 22, 2021 (the “One-Month Notice”) pursuant to s. 47 of the *Residential Tenancy Act* (the “Act”).

The matter had been adjourned at the Tenant’s request on December 20, 2021 and January 20, 2022.

M.V. appeared on her own behalf as Tenant. M.R., J.E., and M.K. appeared as witnesses for the Tenant. M.R. was identified by M.V. as the Tenant’s advocate, however, M.R. provided no direct submissions on behalf of the Tenant during the hearing and only provided evidence on direct examination and cross-examination. A.A. and D.P. appeared as agents for the Landlord.

The parties affirmed to tell the truth during the hearing.

The Landlord advised that the One-Month Notice was served on the Tenant by having it posted to her door on October 25, 2021 and by sending it via registered mail on the same date. I find that the One-Month Notice was served in accordance with s. 88 of the *Act*. Pursuant to s. 90 of the *Act*, I deem that the Tenant received the One-Month Notice on October 28, 2021.

There were issues with respect to service of the Notice of Dispute Resolution. In the Tenant’s application, she provided her personal email and the Residential Tenancy Branch sent the Notice of Dispute Resolution to that email address. At the hearing on December 20, 2021, the Tenant, who had the assistance of an advocate at that time, A.W., advised that she does not have access to her personal email and that she only

received the Notice of Dispute Resolution on the morning of December 20, 2021 after contacting the Residential Tenancy Branch directly. The Landlord, alerted to the Tenant's application on November 29, 2021 by the Tenant herself, received the Notice of Dispute Resolution directly from the Residential Tenancy Branch on December 2, 2021.

I note that Rule 3.1 of the Rules of Procedure imposes an obligation on applicants to serve the Notice of Dispute Resolution on the respondent. I further note that this process was frustrated when the Tenant provided an email address for receiving the Notice of Dispute Resolution for which she did not have access. It does not appear that the Tenant ever served the Notice of Dispute Resolution on the Landlord as the Landlord received the Notice of Dispute Resolution directly from the Residential Tenancy Branch. Despite these issues, I am satisfied that the Landlord did receive the Notice of Dispute Resolution and was able to provide evidence in support of their case for upholding the One-Month Notice. I find that pursuant to s. 71(2) of the *Act* the Landlord was sufficiently served with the Notice of Dispute Resolution.

The Tenant indicates that she served her evidence on the Landlord on January 14, 18, and 27, 2022. The Landlord acknowledges receipt of all three evidence packages. In my interim decisions, I directed that the Tenant serve her evidence within three days of receiving the December 20, 2021 interim decision, as contemplate by Rule 3.1. I further directed in my January 20, 2022 interim decision that no further evidence submissions would be permitted. The Tenant did not follow either direction. At the hearing, I explained that I would not allow the evidence on January 27, 2022 and explained that despite my direction from December 20, 2021, I would permit the inclusion of the Tenant's evidence of January 14 and 18 on the basis that the this matter had been adjourned and that the adjournments have provided the Landlord sufficient time to review the Tenant's evidence to formulate a response. I find that the Tenant's evidence packages of January 14 and 18 were sufficiently served on the Landlord pursuant to s. 71(2) of the *Act* based on the Landlord's acknowledged receipt of the same.

The Landlord advised that they served their responding evidence on the Tenant by way of registered mail sent on December 3, 2021 and January 10, 2022. I find that the Landlord's evidence was served in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem that the Tenant received the Landlord's evidence on December 8, 2021 and January 15, 2022.

Issue(s) to be Decided

- 1) Should the One-Month Notice be cancelled?
- 2) If not, is the Landlord entitled to an order for possession?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

A written tenancy agreement was put into evidence indicating that the Tenant moved into the rental unit on December 16, 2019, rent of \$375.00 was due on the first day of every month, and that the Landlord holds a security deposit of \$187.50 and a pet damage deposit of \$187.50 in trust for the Tenant. The Landlord highlighted that the tenancy agreement has a good neighbour addendum that was signed by the Tenant when the tenancy began.

The Landlord indicated that they issued the One-Month Notice after several incidents between the Tenant and other occupants of the residential property. The residential property is a multi-unit rental which the Landlord says is intended to provide affordable housing to its occupants.

The One-Month Notice highlights three incidents occurring on June 25, 2021, July 8, 2021, and October 18, 2021.

In the Landlord's telling, the Tenant has become disruptive at the property. Though not related to the One-Month Notice, they highlight a warning letter sent to the Tenant on June 22, 2021 regarding complaints from other occupants at the residential property that the Tenant's dog was barking. The Landlord provided a copy of the letter and the Tenant's response. The Tenant makes various accusations in her written response to the June 22, 2021 warning letter, including that she is in compliance with the terms of the tenancy agreement, that her dog does not bark, and that the Tenant has, at various times, raised issues with the Landlord with respect to breaches of the good neighbour policy by other occupants at the building.

The incident of June 25, 2021 occurred in an outdoor area at the residential property where the residents go to smoke. The Landlord received a complaint from other

occupants after they were sitting outside smoking when the Tenant came outside and began to argue with them. The Landlord highlighted that the argument appeared to be related to a tablecloth on the picnic table in which the other occupants were sitting. The argument escalated and the Tenant eventually called the police.

The Landlord provides a statement from S.C. dated June 28, 2021, who was one of the occupants with whom the Tenant had the argument on June 25, 2021. S.C.'s statement indicates that she and other tenants were sitting at the picnic table to visit and set up a tablecloth to play crib. S.C.'s statement says that the Tenant came outside and took issue with the tablecloth, which the Tenant felt was tacky. S.C. says that the Tenant started to argue with her and began to remove the metal clips holding the tablecloth to the picnic table. Matters escalated and S.C. says that she removed the tablecloth and admitted to breaking a plant, which prompted the Tenant to call the police.

In the Tenant's telling, she says that she had received mean spirited text messages from the other occupants prior to June 25, 2021 and that when she came upon the occupants outside, she decided to discuss the issue with them. The Tenant explains that she was previously told by the Landlord that it was not Landlord's place to act as arbiter for these types of disputes. The Tenant argued that the Landlord is applying the good neighbour policy unfairly.

J.E. in her evidence indicated that she witnessed the tail-end of the argument on June 25, 2021 and that the Tenant had her foot injured after a pot from the picnic table had fallen on it. J.E. admitted she did not witness what initiated the incident on June 25, 2021 and was relying on second-hand information from others. She further admitted that she had not directly witnessed the alleged interactions between the Tenant and the other occupants raised by the Landlord in the One-Month Notice.

The Landlord put into evidence an undated letter from J.D., another occupant at the residential property. J.D. says in the letter that he lives with his wife, whose initials are also J.D., and that some months before the letter was written, he and his wife had a falling out with the Tenant and decided to avoid all contact hoping that they could be left alone. J.D. says that the Tenant has left notes under their door since they had their falling out and continued to do so after being asked to stop. The letter further mentions another incident that occurred on June 25, 2021 at 11:00 PM, which appears to be separate from the previous incident of the same date mentioned above, where the Tenant called J.D. a "fucking bitch" from the smoking area while J.D. and his wife were sitting on their balcony.

J.D. and J.D. provided a copy of a letter they say they received from the Tenant to the Landlord, who then put it into evidence. In the letter, the Tenant describes how J.D. had created drama in the residential property despite the Tenant only being a very nice person to them both. The letter ends with an insinuation that J.D. is cheating on her husband, that J.D. is impotent, and that he should try Viagra.

The Tenant says that she too has received letters under her door from J.D. and that the Landlord has refused to take action with respect to what is argued to be her harassment from J.D.. No letter from J.D. or J.D. sent to the Tenant were put into evidence.

These interactions between J.D., J.D, and the Tenant prompted D.P., the executive director for the Landlord, to meet with J.D. and J.D. to discuss their concerns in early July 2021.

The Landlord provides a letter dated July 14, 2021 sent to the Tenant in which the Landlord describes their ongoing concerns with respect to the Tenant's interactions with the Landlord's staff, in particular, the Tenant yelling and swearing at staff members.

The Landlord indicates that they received further complaints from J.D. by way of emails sent on October 8 and 18, 2021, which were put into evidence. The October 8, 2021 email describes an incident that occurred on October 7th. On that occasion, the Tenant is said to have gone to their door, knocked, and upon J.D. opening the door the Tenant is said to have yelled at J.D.. J.D. says that the Tenant called his wife a "fucking bitch" and she was "fake and everybody in the building knows it". The Tenant is also said to have told J.D. that "you're not nice to me" and then said that J.D. passed by her in the hallway and did not say hello. J.D. told the Tenant to leave and shut the door to their rental unit. The email further describes that J.D. is stressed from her interactions with the Tenant and that she no longer feels safe within the residential property.

The Landlord put into evidence a video recording of the incident showing the hallway of the residential property in front J.D. and J.D.'s rental unit. The video shows the hallway empty, then J.D. exiting an elevator and entering her rental unit. Shortly thereafter, the Tenant is seen exiting the elevator, walking to J.D.'s door, knocked on J.D.'s door, and an argument can be seen to have occurred. The video has no audio. J.D. is seen pointing to the Tenant to leave and closes the door.

The Tenant acknowledges the incident of October 7, 2021 and says that she was called by J.D. from the balcony to come to the rental unit to talk to her. The Tenant further says that the video provided by the Landlord is incomplete and that after she left J.D.'s entryway, she was followed by J.D. to the entrance of the residential property where their argument continued.

Following the incident of October 8, 2021, the Landlord attempted to organize a meeting with the Tenant to discuss issues related to her interactions with the other occupants at the building and to specifically highlight the good neighbour policy in the tenancy agreement. The Landlord drafted a letter dated October 12, 2021, which was to serve as a final warning with respect to this issue and was to be delivered to the Tenant at the meeting. However, the Landlord says that the Tenant refused to attend the meeting and acknowledges that the October 12, 2021 letter was never delivered to the Tenant. The Landlord submits an email between staff members dated October 14, 2021 regarding the Tenant's non-attendance.

The Landlord later received a final email from J.D. on October 19, 2021 regarding an incident that is said to have occurred on October 18, 2021. It states that the Tenant began to yell at J.D. from the outdoor area while J.D. was on the balcony of their rental unit. The Tenant is said to have loudly stated "that fucking witch up there got [K.] and [N.] evicted and now she got me evicted by [D.P.] told me I have to leave that little witch alone." I have anonymized the names listed in the email. Later, the email states that the Tenant began to insult J.D. and others while they were sitting outside. J.D. speculates that the Tenant was attempting to start a fight. The police were called but were unable to send an officer on that occasion. The email ends discussing the occupants fear that the verbal arguments will escalate to physical confrontations.

The Tenant denies that any incident occurred at all on October 18, 2021.

The Tenant stated that it was J.D. and J.D. that were escalating the conflict and were sowing discord within the residential property. The Tenant indicates she has been harassed by them, including letters placed under her door by them. The Tenant argues that the Landlord is treating her unfairly as her complaints of J.D. and J.D. have gone on deaf ears.

The Tenant's witnesses provide general character evidence for the Tenant and indicated their belief that the Tenant is being treated unfairly by the Landlord. J.E. indicating she never witnessed any malicious interactions between the Tenant and other

occupants. M.K. stated that he witnessed the Tenant being harassed one or two times but was unable to provide specific recollection of dates or events.

The Tenant further provided written statements from occupants at the residential property in her support, some of the letters were drafted by the witnesses the Tenant called at the hearing.

Analysis

The Tenant applies to cancel the One-Month Notice.

Under s. 47 of the *Act*, a landlord may end a tenancy for cause and serve a one-month notice to end tenancy on the tenant. A tenant may dispute a one-month notice by filing an application with the Residential Tenancy Branch within 10 days after receiving the notice. If a tenant disputes the notice, the burden for showing that the one-month notice was issued in compliance with the *Act* rests with the landlord. The Landlord must prove on a balance of probabilities that the One-Month Notice was properly issued.

The One-Month Notice here is issued on the basis of sections 47(1)(d)(i) and 47(1)(d)(ii), namely that the Tenant has significantly interfered with or unreasonably disturbed another occupant and seriously jeopardized the health, safety, or lawful right of another occupant.

I have reviewed the One-Month Notice and find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

After consideration of the parties' evidence, I am satisfied that the One-Month Notice was properly issued. I accept that the Tenant has had an ongoing series of negative interactions between herself and J.D. and J.D., which is not disputed by the parties. The only dispute is whether the Tenant has instigated the incidents in question. I place significant weight in the letter the Landlord put into evidence that was drafted by the Tenant and delivered to J.D. and J.D.. The Tenant did not deny authoring the letter. The Tenant argued that she is being targeted by J.D. and that she has also received letters under her door from J.D.. No such letters were put into evidence by the Tenant.

I am further satisfied that the incident of October 7, 2021 occurred largely as described by J.D. in the email of October 8, 2021. I have reviewed the video provided by the Landlord and put significant weight in the recording. It clearly shows J.D. walk into her rental unit and shortly thereafter the Tenant can be seen to come to J.D.'s door and begins to argue with J.D.. J.D. can be seen gesturing to the Tenant to leave and it was only after the door was closed by J.D. that the Tenant did so.

The Tenant argued that she was called up to J.D.'s rental unit by J.D. herself. I do not believe this as the video clearly demonstrates J.D. only just entered her unit, which makes the invitation from J.D.'s balcony unlikely as there was insufficient time to allow between J.D. exiting the elevator and the Tenant exiting the elevator. The Tenant indicates that J.D. followed her down the stairwell and that the Landlord's video does not include this second interaction. The Tenant's allegation is unsupported by the evidence. I would further note that any potential second interaction does not explain why the Tenant took it upon herself to confront J.D. at her rental unit.

Finally, I accept that the incident of June 25, 2021 took place largely as described in the letter of S.C. dated June 28, 2021. At the hearing, the Tenant did not deny approaching the other occupants on that occasion and indicated that she did so because of an issue with text messages she says she received from the other occupants. No copies of these text messages were provided.

I have reviewed the Tenant's evidence. The letters in support of the Tenant largely provide opinion evidence and do not dispute the Landlord's narrative with respect to how the incidents listed in the One-Month Notice occurred. I place no weight in the support letters provided by the Tenant as general character evidence of the Tenant is of little relevance to this dispute.

I find that the incidents of October 7, 2021, the undated letter sent to J.D. from the Tenant, and the incident of June 25, 2021 show a pattern of behaviour on the part of the Tenant instigating arguments and fights with the other occupant's of the building. I find in particular that the incident of October 7, 2021, letter from the Tenant, and the incident of June 25, 2021 constitute unreasonable disturbances to the other occupants, specifically J.D. and J.D.. I accept that they J.D. and J.D. are fearful of the Tenant due to their past interactions with the Tenant.

I find that the One-Month Notice was properly issued. Accordingly, I dismiss the Tenant's application to cancel the notice.

Pursuant to s. 55(1) of the *Act*, I must grant a landlord an order for possession where a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with s. 52. Accordingly, I grant the Landlord an order for possession.

Conclusion

The Tenant's application to cancel the One-Month Notice is dismissed. The Landlord is entitled to an order for possession pursuant to s. 55(1) of the *Act*. The Tenant shall provide vacant possession of the rental unit within **two (2) days** of being served with this order.

It is the Landlord's obligation to serve this order on the Tenant. If the Tenant does not comply with the order for possession, it may be filed by the Landlord 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 31, 2022

Residential Tenancy Branch