



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, LRE

Introduction

This hearing dealt with a tenant's application to cancel a One Month Notice to End Tenancy for Cause and orders to suspend or set conditions on the landlord's right to enter the rental unit.

The landlord's agent and building manager appeared for the hearing. The tenant and three Advocates appeared for the hearing. The parties were affirmed. The tenant also had a friend in attendance at the beginning of the hearing who intended to provide a "character reference" for the tenant. The tenant's friend was excluded with instructions to wait to be called to testify. During the hearing, the tenant's friend was not called to testify.

At the outset of the hearing, I confirmed the tenant served the tenant's proceeding package to the landlord via registered mail.

I determined both parties had served their evidence packages late upon each other. Given the lateness of service on part of both parties, I explored options with the parties as to how to deal with the lateness issue. Both parties were agreeable to the admission of the late evidence of the other party. Accordingly, I admitted the late served evidence of both parties and I have considered it in making my decision.

The hearing process was explained to the parties and the parties were given the opportunity to ask questions about the process. Both parties had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

On another procedural note, the tenant did not provide any details of dispute that would point to a basis for suspending or setting conditions on the landlord's right to enter the rental unit. As such, I did not consider that remedy further.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be upheld or cancelled?

Background and Evidence

The tenancy started on May 1, 2006, and the tenant is currently required to pay rent of \$1034.00 on the first day of every month, on a month to month basis.

The rental unit was described as being a ground floor apartment in an apartment building managed by the landlord. The tenant resides in the rental unit with her disabled adult daughter.

It was undisputed that on June 2, 2021, the landlord issued a warning letter to the tenant. The warning letter states:

RE: Attempting to enter other units FINAL WARNING

We have received multiple complaints of you attempting to enter units that are not your own. This is a serious security, and privacy issue; and **must stop immediately**. You have also been observed walking up to ground floor unit windows and peering inside. These behaviors are unacceptable, and a breach of your tenancy agreement.

As per your **Rental Tenancy Agreement, page 2 section 18** "In order to promote the safety, welfare, enjoyment, and comfort of other occupants and tenants of the residential property and the landlord, the tenant or tenant's guest must not disturb harass or annoy another occupant of the residential property, the landlord, or a neighbor."

On August 31, 2021, the former property manager issued the subject One Month Notice to End Tenancy for Cause ("One Month Notice") and posted it on the rental unit door. The reason for ending the tenancy indicated on page two of the One Month Notice is:

- *The tenant or a person on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.*

In the Details of Cause on the One Month Notice, the property manager wrote:

Details of Causes(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.
Details of the Event(s): Tenant has been witnessed spying on the ground floor units multiple times, and confronting other tenants when questioned. She has verbally abused many residents in the building when they asked about her erratic and concerning behavior. Tenant has been going around building and trying door handles to see if units are unlocked. This security risk has led to a tenant leaving the building. We have received up to six separate detailed complaints about this behavior which seems to be escalating. Behavior continued after our last Final Warning letter, and after receiving another complaint which caused a vacancy we are serving this notice.

Landlord's position

The landlord submitted that the warning letter was issued after the landlord had received a number of complaints from other tenants in the building concerning the tenant's alleged aggressive and harassing conduct, as well as looking into other tenant's windows, and attempting to enter other rental units in the building. The landlord provided copies of written complaints received from other tenants in the building between 2019 and 2021.

The building manager testified that after the warning letter was issued to the tenant on June 2, 2021, the building manager received verbal complaints from other tenants that the tenant was seen on various other floors in the building, in August 2021, even though the tenant occupies a ground floor unit. The building manager acknowledged these complaints were not put in writing.

The building manager testified that since he started managing the building in September 2017, he has received several complaints from other tenants and witnessed the tenant bothering other tenants by knocking on their doors asking for grocery items; yelling at other tenants and tradespersons; and, creating disputes with other tenants over parking and the elevator usage. As a result, two tenancies were ended by tenants who had raised complaints about the tenant.

The landlord's agent submitted that the One Month Notice was issued for multiple reasons and not just the allegation of peering in windows and attempts to enter other units. The landlord's agent testified that the tenancy was uneventful until 2015 when

the landlord complained to the tenant about her muddy shoes. Also, in 2015 there was a water leak in the rental unit and in entering the unit to deal with the issue the landlord observed the rental unit not being maintained by the tenant in a sanitary condition. This was raised to the tenant's attention along with issues concerning the tenant straddling two parking spots in the property's parking lot.

The landlord's agent points to the complaint letters written by other tenants between 2019 and 2021 to demonstrate the tenant's conduct is harassing, ongoing and affecting the quiet enjoyment for the landlord's other tenants while in their own units and in the common areas such as the parking lot and the elevator.

Tenant's position

The tenant submitted that she lives with her severely autistic adult daughter and their activities often revolve around her daughter's condition. After receiving the landlord's complaint letter of June 2, 2021, the tenant stated that she and her daughter changed their walking routine. The tenant had gone walking toward the street but it is not safe so they walk on the grass at the side of the building. The tenant acknowledged that during these walks the tenant points to climbing rose bushes on the side of the building as her daughter enjoys looking at them. The tenant states she does drive and she also takes her daughter to public parks but she does not do so after 5:00 p.m. because her daughter is medicated at that time.

As for trying to enter other units, the tenant denied this to be true and pointed to her lack of a criminal records as proof.

As for her conduct around the elevator, the tenant indicated that she finds other people are not courteous or respectful when they do not push the elevator button for her or they try to block her daughter's entry/exit. The tenant acknowledged that she expresses her displeasure to these people but denied cornering them.

As far as the complaint letters written by other occupants, the tenant pointed out that receiving the landlord's evidence package in January 2022 was the first time she had seen the complaints against her. The tenant implied the letter writers were prompted to write them by the landlord and the tenant believes the landlord is motivated to "renovict" her. The tenant pointed to a photograph of scaffolding and tarping on the exterior of the building in support of her position the landlord wants to "renovict" her.

As to motivation of other tenants to complain about her conduct, the tenant stated that she has figured out who the complainants are and the complainants wrote the letters against the tenant because they do not like mothers, grandmothers, senior women or people who believe in God.

The tenants' advocates made various submissions during the hearing, including the following, in summary form:

1. The complaints of the other tenants appear to be based on gossip on not actual proof.
2. There were no warning letters prior to the June 2, 2021 letter which is identified as a "final warning" letter.
3. After receiving the June 2, 2021 letter the tenant has taken steps to change her walking routine.
4. Now that the tenant has seen the complaint letters from other tenants, the tenant has greater insight as to how others view her conduct.
5. The tenant is dealing with a daughter who has significant needs and there are times the tenant may become frustrated, especially in the elevator.
6. The tenant works with community support workers and they are prepared to provide coaching to the tenant with a view to improving behaviour towards others and preserving this tenancy.

Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenant was served with a valid notice to end tenancy and the tenancy should end for the reason(s) indicated on the notice.

Under section 28 of the Act, every tenant is entitled to quiet enjoyment. Quiet enjoyment includes freedom from unreasonable disturbance and significant interference of use of common areas on the property. Residential Tenancy Policy Guideline 6: *Entitlement to Quiet Enjoyment* provides information and policy statements with respect to a tenant's right to quiet enjoyment. As provided in the policy guideline, where a landlord is aware that a tenant is disrupting the quiet enjoyment of another tenant, the landlord is expected to take action to protect the quiet enjoyment of the tenant suffering the loss. The landlord's action may include ending the tenancy of the offending tenant where warranted, as provided under section 47 of the Act.

In issuing the subject One Month Notice, the landlord asserts that the tenant's conduct is unreasonably disturbing and significantly interfering with its other tenants' right to quiet enjoyment.

The landlord pointed to several complaint letters received from other tenants between 2019 and 2021. Upon review of the letters, the other tenants complain of the tenant acting in a confrontational and aggressive manner in common areas, especially the parking lot, elevator and common hallways and stairways. The complainants also describe the tenant as peering in their windows and attempting to enter their units.

I accept that all of the conduct described above is unacceptable and disturbing to the landlord's other tenant. Considering multiple tenants complain of similar issues, I find the offensive behaviour was repeated and constitutes unreasonable disturbance and significant interference. However, from the tenant's perspective, she was only put on notice about peering in windows and attempting to enter other units by way of the June 2, 2021, warning letter and the landlord communicated that behavior must cease. It is unclear to me the reason the former property manager did not address the other complaints in the warning letter. As such, I shall only consider the offending behaviour the tenant was made aware of by way of the warning letter in deciding whether there are sufficient grounds to end the tenancy.

Upon receiving the warning letter, the tenant claims she changed her walking route and the tenant denied peering in windows or attempting to enter other rental units. The building manager claims he received further complaints of attempts to enter other rental unit and window peering after the June 2, 2021 warning letter; however, the landlord did not present any written complaints or call any witnesses to corroborate those claims. As such, I find the disputed oral evidence is insufficient for me to find the tenant continued to peer in windows or attempted to enter other rental units after the June 2, 2021, warning letter. Therefore, I find the landlord did not meet its burden of proof and I cancel the One Month Notice dated August 31, 2021.

In recognition that the tenant has now been put on notice that the landlord has received multiple complaints from other tenants concerning her unwanted aggressive and confrontational conduct toward other tenants, and with a view to curbing further offensive behaviour so as to protect the rights of the other tenants and the landlord, I find it appropriate to address the other complaints.

It is clear to me that there is a common thread running through the complaint letters, that the tenant approaches other tenants and engages in making unwanted accusations

in a confrontational and aggressive manner. During the hearing, the tenant either attempted to justify her conduct or provided conspiracy theories. As I suggested to the tenant, it is upon her to control her conduct, even if she disagrees with someone else's conduct, so as to not disturb other tenants who have the same rights to use the common areas and facilities. In other words, the tenant's rights do not trump or supersede the rights of others. As for the tenant's conspiracy theories, I reject her suggestion that the complainants wrote the letters because they do not like mothers, grandmothers, senior women or people who believe in God. I have read the complaint letters and I do not see any indication they are motivated by ageism, misogyny or religious discrimination. Nor do I view the landlord's exterior repairs or renovations as a basis to conclude the landlord is attempting to "renovict" her.

While I have a healthy skepticism that the tenant will change her behaviour since she was very unwilling to acknowledge any responsibility for her conduct, I also recognize that the tenant has support workers in place willing to provide her with coaching to improve her interactions with others. Now that the tenant and her Advocates are fully aware as to how the tenant's conduct negatively impacts other occupants of the property and the tenant's continued offending behaviour may result in the end of this tenancy, I issue orders to the tenant with this decision, pursuant to the authority afforded me under section 62 of the Act.

Effectively immediately upon receiving this decision, I order the tenant to:

- 1. Refrain from confronting, arguing, or making an accusation against any other tenant, occupant, tradesperson, or other person anywhere on the common area of the residential property, including: the parking lot, hallways, stairways, elevator, lobby, laundry room, and the like.**
- 2. Take her complaint, if any, concerning the conduct of another tenant, occupant, or tradesperson on the property to the landlord rather than confront the person she considers having acted in a disrespectful, disturbing or offensive manner.**
- 3. Refrain from looking in the windows of other rental units or attempting to turn the doorknob or insert a key in the lock of any other rental unit located on the property.**

Failure to comply with the above orders shall entitle the landlord to issue another One Month Notice to End Tenancy for Cause indicating one or both of the following reasons for ending a tenancy, as provided under section 47(1)(d)(i) and 47(1)(l) of the Act:

(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,

(l) 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.

Assuming the tenant wishes to continue her tenancy for the foreseeable future, I strongly encourage the tenant to work with her support workers and/or Advocates, as they have offered to do, with a view to learning or improving skills to avoid acting in a confrontational, aggressive, or accusatory way towards others, especially when on the residential property.

Conclusion

The One Month Notice dated August 31, 2021, is cancelled and the tenancy continues at this time.

By way of this decision, I have issued orders to the tenant. Should the tenant violate my orders, the landlord may issue another One Month Notice to the tenant.

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: February 2, 2022

Residential Tenancy Branch