



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, LAT, ERP, OPC, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application filed on October 12, 2021, is seeking orders as follows:

1. For an order of possession; and
2. To recover the cost of filing the application.

The tenant's application filed on October 6, 2021, is seeking orders as follows:

1. To be allowed more time to dispute a One Month Notice for Cause (the "Notice") issued on September 27, 2021.

The tenant further amended their application on December 23, 2021, and January 13, 2022; seeking orders as follows:

1. For compensation for money loss or other money owed;
2. To have the landlord make emergency repairs for health and safety reasons; and
3. To be allowed to authorize the change the locks to the rental unit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing. All parties confirmed under affirmation they were not recording this hearing.

The tenant confirmed the evidence of the landlord. The tenant stated they did not serve their evidence on the landlord. As the landlord was not served with the tenant's evidence, I find I must exclude that evidence from the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution and amended applications. The most urgent of which is the application to whether the tenant should be allowed more time to dispute the Notice. I find that not all the claims on this Application for Dispute Resolution/amendments are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy. The balance of the tenant's application is dismissed, with leave to reapply.

As the landlord's Application for Dispute Resolution is directly related to the tenant's application. I will, therefore, consider the landlord's application.

At the outset of the hearing, I informed the landlord that the tenant filed their application to dispute the Notice on October 6, 2021; however, the tenant was having technical issues with the changes the Residential Tenancy Branch wanted them to make to their application which was not officially accepted until October 12, 2021. The landlord takes no issue with the tenant's request for more time and the hearing will be dealt with the merits of the Notice.

Issue(s) to be Decided

Should the Notice be cancelled?
Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on December 1, 2003. Rent in the amount of \$972.00 was payable on the first of each month. The tenant paid a security deposit of \$259.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on October 31, 2021.

The reason stated in the Notice was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the
- landlord;
- has seriously jeopardized the health safety or lawful right of another occupant or the landlord; and
- Breach of 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 behaviour has been escalating and they have warned the tenant of that behaviour. The landlord stated that the tenant displays, offensive, harassing, insulting, aggression and discriminatory behaviour towards tenants, staff and contractors of MHCHS.

The landlord testified that the tenant wrote a letter to the male occupant in unit 201 on May 15, 2021, bullying and harassing them. Filed in evidence is a copy of the tenant's letter given to the occupant of unit 201, which has five points, I have only reproduced the following which support the tenant's behaviour.

"1. Please remove the old filthy tacky rug from the beautiful front of our yard... Don't be cheap as well as all your other problems.
3. You're very unclean, the entrance steps and leading to your #201 door must remain clean this year.
5. I notice while you were naked on top today that you have gained a lot of excess weight "70 pounds", you now have big beer belly... I am sure your boyfriends will not go for you looking like that!

Read and take this to heart as it must be taken care of by you... signed tenant".

[Reproduced as written.]

A second letter written by the tenant on the May 15, 2021, to the occupant of 201, which the tenant is ranting that the occupant never contributes to their garden, the tenant also makes the following comments "you have real mental problems" "very ungrateful.. never thanking me. Please give me back my chocolate bar..." "you waste your life away hermit... no kindness in you only meanness and no love" "move out if you hate use so much your dirty and lazy".

[Reproduced as written.]

A third letter was written by the tenant on May 17, 2021, reads in part,

“we all have asked you to conform to being clean and find your dirty rug very dirty and being there for too long we all ask you to please buy some nice flowers ... you do not contribute to this home of ours ...If it wasn't for me you could not be here!!! ...If you don't like it move out!! See your doctor to increase your meds watch the movie “the three faces of eve!”

[Reproduced as written.]

The landlord testified that on May 19, 2021, the tenant was given a written warning that her offensive and aggressive behaviours towards other occupants and staff is a breach of their tenancy agreement.

The landlord testified that the tenant is abusive towards their staff, using insulting language towards them and making false allegation. The landlord stated that the tenant was told that all communication must go through them as their staff are not required to put up with abuse. The landlord stated that the tenant refused to do this.

The landlord testified on September 6, 2021, the occupants were having a birthday party for their child in the outdoor common area that is off their patio, at which time the tenant unreasonable disturbed their gathering. The landlord stated that the tenant was yelling at them that they should teach their kids some respect as it was labour day and was referring to the occupant that they were foreigners. Filed in evidence are emails, and statements.

The letter of DA (occupant) states in part the following, I have removed the names used for privacy.

“(Tenant) showed up and started arguing with us. She said we had no right to do this, she don't know who those people are pointing towards the kids and my wife I tried to explant that the kids are here to celebrate our son's birthday. .. she told my wife “who are you, you don't live here” This was very offensive since we lived here since 2011. I tried to reason with her but she insisted that we don't have the right to do this...”

[Reproduced as written.]

The letter of DM (occupant in building) states in part the following, I have removed the names used for privacy.

'I overheard the most horrifying racial rant in my life. A group of residents and guests were gathered in the back yard at (Tenant) was yelling at the top of her lungs to the group and vibrating with anger. You woke me up at 10:30am and have no business making so much noise. You should go to Stanley Park this area is for residents only. You foreigners have probably never worked a day in your life. You all should have more respect for Labour Day. I was taking out my recycling. (Tenant) repeated the same rant to me..."

[Reproduced as written.]

The letter of VC (guest of occupants) states in party the following,

"... (Tenant) came out on her balcony and addressed the boys directly stating that they needed to be quiet as it was a holiday and they should be quiet. She then went in and closed her door... (Tenant) came out again and repeated herself seemingly more agitated repeating that it was a holiday and they needed to be respectful and "remember the soldiers". She stated that she was sleeping and they had to be quiet ... The second time she left the door to her patio open and shortly after that she came down to the yard and confronted the children in person. This was alarming for them because they did not understand what they were doing wrong. When (occupant) attempted to diffuse the situation she asked him if he lived there and stated that she would report it to the office. (occupant) and his wife were very respectful and said that would be fine to call the office as he was not doing anything wrong. They were having a birthday party and it would be over soon. The whole experience was disturbing for all the people there. I felt embarrassed for (occupant) and his wife who were treated so poorly by their neighbour and angry that the children felt so bad when they were doing nothing wrong".

[Reproduced as written.]

The letter of KB (occupant in building) states the following, I have removed the names used for privacy.

"There was a lot said from (Tenant) to (occupant) and his wife, in front of the children that were celebrating a birthday party for his young son on Labour Day Monday around 11am. These are only a few statements: "do you know it's labour day , you should teach your kids some respect". Around 12:41, (Tenant) went

downstairs to the birthday party to address (occupant) “you are a foreigner, I will put a complaint with the city of Vancouver - they own this land .” (Tenant) has crossed many serious boundaries. The people around can’t put up with these behaviours. As long as I have lived upstairs I have heard her countless times, being confrontational with the neighbours”

[Reproduced as written.]

The letter of QP (occupant in building) states the following, I have removed the names used for privacy.

“... Around 2 PM, I heard an altercation in the back area with raised voices and shouting, but I wanted to avoid it, so I decided to leave my house through the front door.... (Tenant) told me she confronted (occupant) and (occupant) and their family because of not observing Labour Day properly. She told me that the family was disturbing all of the “Canadians” who knew the meaning of Labour Day. I found the nature of (Tenant) complaints highly offensive and racist. She told me that since (occupant) is “German” and not from Canada, he doesn’t understand working hard in Canada, therefore, he was improperly celebrating Labour Day. She said since (occupant) is German (I think he’s NOT German), he’s a pig and a misogynist and that he must abuse women and his children. She continued to talk about how immigrants who haven’t worked in Canada don’t know the meaning of Labour Day, which to her means “peace and quiet for those Canadians who worked hard in Canada”. (Tenant) also called (occupant) “some Chinese woman” and said that that’s why she was so impolite and uncouth. When I told her that I think she is Philipina, she then told me, “Well, that’s why she looks like a mail-order bride then”. She then continued to say disparaging things about (occupant) and (occupant) ...”

[Reproduced as written.]

The tenant’s daughter stated that their mother did write those letters to the other occupant on May 15 and 17, 2021, and that they were inappropriate. The tenant’s daughter stated that her mother and the occupant had known each other for many years. The tenant’s daughter stated that their mother has had no further contact with the occupant.

The tenant’s daughter stated they were not present on September 6, 2021.

The tenant testified that they did not yell or cause any disturbance on September 6, 2021. The tenant stated that it was around 9:30am and the children were loud outside.

The tenant stated that they just went outside as they were wondering what was going on. The tenant stated that they also mentioned that having a BBQ so close to the trees was not a good idea and that it would be best to be moved into the alley way. The tenant stated that they are not a racist.

The tenant testified that the landlord is the one who is harassing them. The tenant then went into a rant, stating things like the landlord is having multiple affairs, and the property manager has a low IQ.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I find the letters and the behavior of the tenant that were sent on May 15, and May 17, 2021, to the occupant of unit 201, bullying, harassing and insulting, simply because the tenant did not like the other occupant's doormat or that they did not contribute flowers to their garden. The occupant pays their monthly rent and that is their only obligations. The tenant had no right to write such offensive letters to the occupant.

On September 6th, 2021, the occupants were having a small gathering to celebrate their child's birthday, which is their rights to do so, regardless of a holiday. I do not accept the tenant's testimony they just wanted to know what was going on and concerned about the BBQ. This does not have the ring of truth. The tenant had no right to unreasonable disturb the occupants from celebrating their child's birthday and had no right to interfere by questioning the children or the guests of the occupants.

Further, the behaviour of the tenant is consistent, they harassed the occupant in unit 201, when they felt this occupant was not contributing, using derogatory comments. The tenant harassed the occupants on September 6, 2021, when they felt the occupants should not be celebrating their son's birthday on a holiday, and again derogatory comments were made that they were foreigners. Even at this hearing the tenant stated that the property manager has a low IQ.

Also, I note in an email from the tenant sent to the landlord, the tenant refers to the landlord QW, from Scotland and in another refers to someone as a foreigner to Canada. This leads me to believe that this is common language that the tenant uses to describe others, who have immigrated to Canada, which is offensive when they have use in a manner that it meant to belittle another.

Based on the above, I find the landlord proven the reasons stated in the Notice. The Notice complies with the provisions of section 52 of the Act. I find the Notice is valid and remains in full force and effective. Therefore, I dismiss the tenant's application to cancel the Notice and grant the landlord's application for an order of possession.

As the landlord have accepted occupancy rent for the month of February 2022, I find it appropriate to extend the effective vacancy date in the Notice to February 28, 2022, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective **February 28, 2022, at 1:00 P.M.** This order must be served on the tenants and may be filed in the Supreme Court.

Since the landlord has been successful with their application, I find the landlord is entitled to recover the cost of filing their application from the tenant. Therefore, I grant the landlord a monetary order in the amount of **\$100.00** and the landlord is authorized to deduct that amount from the tenant's security deposit if full satisfaction of this award.

Conclusion

The tenant's application to cancel the Notice, is dismissed.

The landlord is granted an order of possession. I grant the landlord a monetary order for the cost of filing their application and the landlord is authorized to deduct that amount from the tenant's security deposit in full satisfaction of this award.

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 23, 2022

Residential Tenancy Branch