



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SPRINGCITY RETIREMENT SERVICE
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

On November 22, 2021, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing. S.Z. attended the hearing as an agent for the Landlord. All parties agreed that a 10 Day Notice to End Tenancy for Unpaid Rent was never served. However, a One Month Notice to End Tenancy for Cause (the “Notice”) was served to the Tenant. As such, the Tenant’s Application has been amended to address the dispute of this Notice pursuant to Section 47 of the *Act*.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that he served the Notice of Hearing and evidence package by hand on or around November 23, 2021, and S.Z. confirmed that this was received. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord has been duly served the Tenant’s Notice of Hearing and evidence package. As such, I have accepted the Tenant’s evidence and

will consider it when rendering this Decision. However, as the Tenant did not serve his late evidence, this late evidence will be excluded and not considered when rendering this Decision.

S.Z. advised that the Landlord 's evidence was served to the Tenant by registered mail on February 23, 2022, and the Tenant confirmed that he received this. As such, I have accepted the Landlord's evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy fell under the jurisdiction of the *Act*, that the tenancy started on August 1, 2016, that the rent was owed in the amount of \$2,050.00 per month, and that it was due on the first day of each month. A security deposit of \$2,000.00 was also paid, and S.Z. was cautioned that this exceeded the amount that was permitted to be collected pursuant to Section 19 of the *Act*. A copy of the signed tenancy agreement was submitted as documentary evidence.

S.Z. advised that the Notice was served to the Tenant by registered mail on November 19, 2021. The reason the Landlord served the Notice is 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”, because the Tenant “seriously jeopardized the health or safety or lawful right of another occupant or the landlord”, and because of a “Breach of a material term of the tenancy agreement that was not corrected withing a reasonable time after written notice to do so.” The Notice indicated that the effective end date of the tenancy was December 31, 2021.

She advised that the Tenant developed feelings for her, and she referenced the documentary evidence of the numerous letters and gifts that the Tenant gave her to support this position. In addition, she stated that he would ask to have private meetings with her that were not related to work, and that whenever she declined, he would threaten to move out. She testified that the Tenant would walk into her office without making an appointment, and that he would sometimes chase her or go to the parking lot to wait for her. Amongst all of the other inappropriate behaviours, she stated that on November 5, 2021, the Tenant approached her, and/or her staff, on five different occasions. She submitted that he was verbally abusive, and he harassed them. The Tenant was given a warning letter on November 7, 2021 for his conduct on November 5, 2021.

She stated that she is married with children, and she is scared for her safety. She referenced documentary evidence where she warned him that she did not condone his harassing behaviour. As well, she noted that the staff have also observed this obsessive behaviour, and she cited the statements from her employees to corroborate this position.

The Tenant advised that S.Z. overexaggerates this issue, that she called him her boyfriend five years ago, that she gave him gifts, that she threw him an 80th birthday party, that she would not throw parties for other residents, that she taught him to say “I love you” in Mandarin, and that she encouraged his behaviour. He confirmed that he was warned approximately a year ago to refrain from giving S.Z. cards, so he stopped immediately, and he has not communicated with S.Z. since. He stated that he rarely leaves his room since the November 7, 2021 warning letter and that the other staff have asked him why.

Regarding the November 5, 2021 incident, he refuted S.Z.’s allegations that he engaged in five different altercations. He submitted that there was only one interaction where he

was upset with S.Z. because she, and other staff, “ganged up” on him and wanted him to sign a blank piece of paper. As a result, he stated to the Landlord that he would be moving out. During the hearing, he could not explain why he was asked to sign a blank piece of paper, but he insisted that it was blank. This is contrary to the details of dispute that he noted in his Application, as he indicated that it was a “paper to terminate my suite”.

He testified that after he had been warned about his behaviour a year ago, he did not engage with S.Z. He then contradictorily stated that had S.Z. told him what was wrong between them, he would have “left it alone”. Instead, he advised that he attempted to confront her several times in an effort to understand the situation.

S.Z. denied ever telling the Tenant that she loved him. She stated that the staff throw birthday parties for all of the residents and that the Tenant forgets this. She submitted that the Tenant also forgets how many incidents he caused or how many times he has yelled at her or other staff members. She has informed him to stop spending his money on her. As well, she stated that the paper she wanted him to sign was not blank, but was a notice to end the tenancy.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord’s One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

I find it important to note that the Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the

Act reads in part as follows:

Landlord's notice: cause

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(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,*
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant*

(h) the tenant

- (i) has failed to comply with a material term, and*
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;*

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party serving the Notice has the burden to provide sufficient evidence over and above their testimony to justify the reason for service of the Notice. Given the contradictory testimony and positions of the parties, I must also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

In reviewing the documentary evidence provided by the Landlord, and as corroborated by multiple staff members, I find that there is a pattern of behaviours and actions committed by the Tenant that echoes S.Z.'s testimony. When weighing this against the Tenant's documentary evidence, and often contradictory testimony, I find that I prefer the Landlord's evidence on a balance of probabilities. As such, I am satisfied that the actions and behaviours by the Tenant were unquestionably inappropriate and unacceptable. I find that they demonstrate a pattern of behaviour that I do not believe is isolated. It appears as if the Tenant has had a personal conflict with S.Z. that has caused this relationship to sour, which has caused him to direct hostility towards S.Z. and other staff members.

Based on my assessment of the evidence and testimony of the parties, I am satisfied that the Tenant has purposefully engaged in a clear, consistent pattern of inappropriate,

hostile, belligerent, unacceptable, and wholly inexcusable behaviour that would fall under the category of significantly interfering with or unreasonably disturbed another occupant or the landlord.

As the Landlord's Notice is valid, and as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of December 31, 2021 on the One Month Notice to End Tenancy for Cause is changed to the nearest date that complies with the law. Since that effective date has passed, I grant the Order of Possession effective on **March 31, 2022 at 1:00 PM** after service of this Order on the Tenant.

Conclusion

I dismiss the Tenant's Application for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord effective on **March 31, 2022 at 1:00 PM** after service of this Order on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: March 15, 2022

Residential Tenancy Branch