



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAKOLA HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNC**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to Sections 47 and 62 of the Act.

The hearing was conducted via teleconference. The Landlord's Property Manager, PM, and the Tenant, BRM, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Landlord's Property Manager served the Tenant with the One Month Notice on January 10, 2022 by posting the notice on the Tenant's door. The Tenant confirms receipt of the One Month Notice. I find the 10 Day Notice was deemed served on the Tenant on January 13, 2022 according to Sections 88(g) and 90(c) of the Act.

The Tenant served the Notice of Dispute Resolution Proceeding package for this hearing to the Landlord's Property Manager by placing the package through the mail slot where the Landlord's Property Manager works on February 17, 2022 (the "NoDRP package"). The Landlord's Property Manager confirms receipt of the NoDRP package. I find that the Landlord's Property Manager was sufficiently served with the NoDRP package for this hearing on February 20, 2022 in accordance with Section 71(2) of the Act.

Issues to be Decided

1. Is the Tenant entitled to cancellation of the Landlord's One Month Notice?
2. If the Tenant is unsuccessful, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenancy agreement states that this periodic tenancy began on November 1, 2008. Monthly rent is \$568.00 payable on the first day of each month. A security deposit of \$300.00 was collected at the start of the tenancy and is still held by the Landlord.

The One Month Notice stated the reason the Landlord was ending the tenancy was because the Tenant has allowed an unreasonable number of occupants in a rental unit and 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. The effective date of the One Month Notice was February 28, 2022. The Landlord's Property Manager provided additional details about the cause:

Tenant has had 2 warning letters regarding unauthorized occupants in her unit. The occupants are still in the unit and continue to harass [sic] and disturb other tenants in the complex on a daily basis. The occupant was removed from a different unit in October of 2021 for lighting a fire to the side of the building putting the landlords property and other tenants at risk.

The Landlord's Property Manager testified that this is a family complex, and the Tenant's older daughter has caused a tremendous upheaval in the community. The Landlord's Property Manager has received multiple complaints, there has been violence, threats and underage drinking. On multiple occasions the police have been called to deal with the disturbances. The latest event occurred on April 8, 2022.

A friend's family of the Tenant's teenage daughter was evicted in October 2021, and one of their children has been staying at the Tenant's home. This particular person started a fire on the side of one of the complex's buildings. The Landlord's Property

Manager issued two warning letters about this person staying in the Tenant's home and asking the Tenant to remove her.

The Landlord's Property Manager stated the Tenant has provided alcohol to these young people. The Landlord's Property Manager shared that these young people have on occasion shot a BB gun at people from the home. An email uploaded in documentary evidence told that the Tenant's daughter who shot the BB gun hit a young boy who lives in the complex. The police were called and they confiscated the BB gun. The Landlord's Property Manager said these young people broke an upstairs window and threw up outside the window. The Landlord's Property Manager feels that the Tenant is living in fear and violence with her 18 year old daughter, and other residents in the complex dread when the weekends come around as these events occur too often.

The Tenant stated she is not providing alcohol to her children; however, she has in the past. As far as the evicted past resident goes, she comes to the Tenant's home and leaves at the end of the day. The Tenant agrees that her daughter has been acting out. She stated she has Attention Deficit Hyperactivity Disorder and a separation disorder. The Tenant testified that some of her daughter's friends have shown up drunk at her home and caused trouble.

The Landlord's Property Manager is seeking an Order of Possession. He is unhappy about this situation, but these are his instructions. The Landlord's Property Manager offered the Tenant to come in and speak to him about resources that may be helpful for the Tenant.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Section 47 of the Act is the relevant part of the legislation for this matter. It states:

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:*

...

- (c) *there are an unreasonable number of occupants in a rental unit;*
- (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,*

...

- (2) *A notice under this section must end the tenancy effective on a date that is*
 - (a) *not earlier than one month after the date the notice is received, and*
 - (b) *the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*
- (3) *A notice under this section must comply with section 52 [form and content of notice to end tenancy].*
- (4) *A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.*

...

The Tenant was deemed served with the One Month Notice on January 13, 2022. The Tenant applied for dispute resolution on January 14, 2022 within the 10 days after the date she received the One Month Notice. I find that the One Month Notice complies with the form and content requirements of Section 52 of the Act.

The Landlord uploaded documentary evidence and provided viva voce evidence that sets out the community havoc experienced in their housing complex on account of the Tenant's older daughter. There has been underage drinking which has contributed to the unruly behaviour of the young people. There has been verbal violence and physical violence with weapons that cannot be maintained especially in this family complex. The Landlord's Property Manager testified that police have been called too many times on account of the undisciplined behaviour of the Tenant's older daughter and her friends. I find that the Landlord's Property Manager has, on a balance of probabilities, proven that the Tenant, or a person permitted on the residential property by the Tenant, has

significantly interfered with or unreasonably disturbed other occupants and the landlord of the residential property. As the Landlord's Property Manager has established cause to end this tenancy, I dismiss the Tenant's application to cancel the Landlord's One Month Notice without leave to re-apply.

As the Tenant failed in her application, I must consider if the Landlord's Property Manager is entitled to an Order of Possession. Section 55(1) of the Act reads as follows:

Order of possession for the landlord

- 55** (1) *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*
- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

I previously found that the One Month Notice submitted into documentary evidence complies with Section 52 of the Act. Based on the testimonies of both parties, I have upheld the Landlord's One Month Notice. Pursuant to Section 55(1) of the Act, I grant the Landlord's Property Manager an Order of Possession which will be effective on April 30, 2022 at 1:00 p.m.

Conclusion

The Tenant's application for dispute resolution is dismissed, and the Landlord's Property Manager is granted an Order of Possession, which will be effective on April 30, 2022 at 1:00 p.m. The Landlord's Property Manager must serve this Order on the

Tenant as soon as possible. The Order of Possession may be filed in and enforced as an Order of the British Columbia Supreme 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 Act.

Dated: April 11, 2022

Residential Tenancy Branch