



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY
(1974) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47.

Tenant WR (the tenant) and the landlord attended the hearing. The tenant was assisted by advocate CB (the advocate). The landlord was represented by property manager AN and program manager EW. Both AN and EW represented the landlord as agents. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing the attending parties affirmed they understand the parties are not allowed to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

As both parties were present service was confirmed. The parties each confirmed receipt of the application and evidence (the materials). Based on the testimonies I find that each party was served with the respective materials in accordance with section 89 of the Act.

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 is compliant with the Act.

Issue to be Decided

Is the tenant entitled to the cancellation of the Notice?

If the tenant's application is dismissed, is the landlord entitled to an order of possession?

Background and Evidence

While I have turned my mind to the evidence of the attending parties, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the tenant's claim and my findings are set out below. I explained rule 7.4 to the attending parties; it is the landlord's obligation to present the evidence to substantiate the Notice.

Both parties agreed the tenancy started on November 01, 2021. Monthly rent is \$375.00, due on the first day of the month. The tenancy agreement was submitted into evidence.

The landlord served the Notice in person and the tenant confirmed receipt of the Notice on March 02, 2022. The tenant submitted this application on March 05, 2022 and continues to occupy the rental unit.

The landlord submitted the Notice into evidence. It is dated March 02, 2022 and the effective date is April 30, 2022. The reasons to end the tenancy are:

- The tenant or a person permitted on the property by the tenant has
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The details of the cause are:

The tenant has repeatedly brought in a banned guest, which has significantly interfered with the landlord & the other tenants in the building.

December 10, 2021: the guest attempted to kick a tenant's door; the guest was found harassing another tenant; the guest was punched by another tenant, RCMP was called as a result of the escalation (file #RM-21-[redacted for privacy])

December 14, 2021: the guest stole a toy car from a tenant's suite

January 18, 2022: a tenant contacted 911 that the guest was allegedly threatening with a gun over money owing on .5 point of fentanyl, RCMP attended (file #RM-22-[redacted for privacy]).

Landlord EW affirmed that TG was evicted from the rental building on July 27, 2020 because he was violent with the landlord and other tenants. EW informed the tenant that TG was not allowed to enter the rental building. The tenant stated that TG is her boyfriend and the father of her children and that the landlord informed her that TG was not allowed to enter the rental building. The advocate testified the tenant was confused if the landlord banned TG from entering the rental building, as the landlord did not provide a formal notice to the tenant.

The tenant confirmed receipt of the April 09, 2021 warning:

It has come to Coast Properties attention that you brought into the property a banned guest and a former tenant who was previously evicted from this property, thus breaking the contractual rules specified in your Residential Tenancy Agreement.

Here are a few instances when you broke these tenancy rules:

On April 6, 2021, the guest was removed from the building by RCMP for obstruction; later that same day your guest attempted to antagonize staff and threatened to hurt that same staff member.

On April 7, 2021, a guest was removed from the building with the assistance from RCMP after he was observed in another tenant's suite.

On April 8, 2021, your guest let themselves into the building while a co-tenant was entering; they ignored staff's direction and went directly to your suite.

[...]

Further continuation of your actions and behavior will jeopardize your tenancy at [redacted for privacy]. You may be issued a Notice to End Tenancy which may lead to eviction proceedings.

(emphasis added)

The tenant confirmed receipt of a similar warning on April 19, 2021. Both warnings were submitted into evidence.

Landlord EW said the tenant submitted an application to the Residential Tenancy Branch (the RTB) asking for an order for the landlord to stop interfering with her guests and to allow the tenant to have TG as a guest. The tenant's application was dismissed

without leave to reapply on May 20, 2021. The tenant affirmed she did not receive the May 20, 2021 RTB decision.

Landlord EW stated that since May 2021 the tenant allowed TG to enter the rental building several times and TG threatened other tenants several times. The tenant testified that she allows TG to enter her rental unit because TG protects her, and she was assaulted twice in the building.

Landlord AN said that the tenant and TG were in the tenant's rental unit on December 10, 2021, TG assaulted other tenant and the police attended the rental building. The tenant affirmed that on December 10, 2021 she did not allow TG to enter the rental building. Later the tenant stated that TG was in her suite on December 10, 2021.

Landlord AN testified that video footage shows that TG entered the rental building on December 14, 2021 and went to the tenant's rental unit. Then TG stole a toy car from another tenant and returned to the tenant's rental unit. The tenant said that TG did not go to her rental unit on December 14, 2021.

Landlord AN affirmed that on January 18, 2022 TG threatened another tenant with a firearm and the police arrested TG in the tenant's unit. The tenant stated that TG was outside her unit, in the hallway, but close to her unit when he was arrested. The tenant testified that the police file number provided is a complaint that the tenant filed with the police regarding excessive force. The tenant said that TG did not have a firearm and she does not know why TG was arrested.

Landlord EW affirmed that on February 07, 2022 she inspected the tenant's rental unit and TG was in the unit. The tenant stated she allowed TG to enter her unit on February 07, 2022.

Analysis

The tenant confirmed receipt of the Notice on March 02, 2022 and submitted this application on March 05, 2022. I find that the tenant's application was submitted before the ten-day deadline to dispute the Notice, in accordance with Section 47(4) of the Act.

I accept the tenant's testimony that she is aware that TG is not allowed to enter the rental building. The tenant confirmed receipt of the April 09 and 19, 2021 warnings. The

warnings clearly state that the landlord may serve a notice to end tenancy if the tenant allows banned guests such as TG to enter the rental building.

I accept the landlord's uncontested testimony that the tenant submitted an application to the RTB for an order to allow the tenant to have TG as a guest and this application was dismissed in May 2021.

The tenant's testimony about the December 10, 2021 incident was contradictory. Based on the landlord's convincing testimony, I find the tenant allowed TG to enter the rental unit on December 10, 2021 and TG assaulted other tenant.

I find the landlord's testimony about the January 18, 2022 incident was more convincing than the tenant's testimony. I find TG threatened another tenant and was arrested in the tenant's rental unit.

I accept the landlord's uncontested testimony that on February 07, 2022 TG was in the tenant's rental unit.

Section 47(1) of the Act states:

(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.

I find the tenant significantly interfered with other occupants of the rental building, as the tenant allowed TG to enter the rental building on December 10, 2021 and January 18, 2022 and TG assaulted other tenant on December 10, 2021 and threatened other tenant on January 18, 2022. The landlord warned the tenant in writing on April 09 and 19, 2021 to not allow TG to enter the building and the tenant continued to allow TG to enter the rental building.

I therefore find the landlord is entitled to end this tenancy, pursuant to section 47(1)(d)(i) of the Act. I dismiss the tenant's application without leave to reapply.

I find the form and content of the Notice complies with section 52 of the Act, as the Notice is signed and dated by the landlord, gives the address of the rental unit, states the effective date and it is in the approved form. I confirm the Notice and find the tenancy ended on April 30, 2022.

Based on my findings noted above, pursuant to section 55(1) of the Act, I find the landlord is entitled to an order of possession effective two days after service on the tenant.

I warn the tenant that she may be liable for any costs the landlord incurs to enforce the order of possession.

Conclusion

I dismiss the tenant's application to cancel the Notice without leave to reapply.

I grant an order of possession to the landlord effective two days after service of this order. 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: June 24, 2022

Residential Tenancy Branch