



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AQUATERRA MANAGEMENT
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, LRE

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not 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. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. 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.

Issues(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Should an order be made to suspend or limit the landlords access to the suite?

Background and Evidence

CF gave the following testimony on behalf of the landlord. The tenancy began on August 1, 2018 with the rent of \$1815.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on May 13, 2022 with an effective date of June 30, 2022 for the following reasons:

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:

- (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, or*
- (iii) put the landlord's property at significant risk;*

CF testified that on May 3, 2022 a suite inspection was conducted whereby two employees of the landlord noticed that the tenant had installed an unauthorized dishwasher without the written permission of the landlord as required per the tenancy agreement, and that the tenant had placed a box over the smoke and heat detector which was another violation of the tenancy agreement and municipal bylaws. CF testified that the tenant was given advanced proper notice to enter the unit for an inspection on May 12, 2022 where access was denied. CF testified that the inspection was to be done to see if the tenant had rectified the issues of the dishwasher and smoke detector.

CF testified that even after the One Month Notice to End Tenancy for Cause was issued, the tenant did not rectify the issues or allow any further access to the unit. CF testified that the suites are inspected monthly and that as the building is over 50 years

old, access is required to enter suites to conduct some repairs, even if the repairs may not be in the subject unit, an inspection may be necessary to trace the cause of the problem. CF testified that the tenant restricting access stops the landlord from conducting and operating their business. CF testified that the tenant covering the smoke and heat detector is dangerous and puts everyone and the building at significant risk. CF requests an order of possession and for the tenancy to end.

The tenant gave the following testimony. The tenant testified that the dishwasher only uses about four liters of water and is unlikely to cause any issues. The tenant testified that he would consider removing it if the landlord would concede to stop entering his unit. The tenant testified that he put a box over the heat and smoke detector to dampen the sounds of the alarm when it was triggered. The tenant testified that he feels that the notices to enter the suite are given to him to “harass and spite me and annoy me”. The tenant testified that the tenancy should continue.

Analysis

When a landlord issues a notice to end tenancy, they bear the burden of providing sufficient evidence to support the issuance of the Notice. The landlord needs only demonstrate that one of the reasons identified in the One Month Notice is valid in order to end a tenancy for cause.

Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties’ testimonies, their content and demeanor as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

Considered in its totality I find the landlord to be a more credible witness than the tenant. The landlord provided consistent, logical testimony which was supported with documentary evidence where available. The landlord admitted when he could not recall specific facts and, where appropriate, referred to his notes and documents prepared prior to this hearing to assist his recollection.

The tenant was argumentative, focused on irrelevant matters and conducted himself in an illogical manner. I found that much of the tenant’s submissions to have little to do with the matter at hand and was concerned with attacking the landlord and making himself appear to be the wronged party. When given the opportunity to cross-examine the landlord the tenant chose to make editorial comments.

Based on the foregoing, where the evidence of the parties clashed, I found that the landlord's version to be more credible and consistent with how a reasonable person would behave.

In addition to the above, the tenant openly admitted and confirmed that he had placed a box over the smoke and heat detector as well as installing a dishwasher without written permission. The tenant did not take responsibility for his actions and in fact, went on the offensive when questioned and stated how he was correct in his actions and that the landlord was wrong. The tenant was adamant that the landlord should not enter his suite regardless of the reason unless they were entering everyone's suite for the same reason.

I find that the tenants' actions of tampering with the smoke and heat detector along with installing and continuing to use an unauthorized dishwasher has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and put the landlord's property at significant risk, as such, I find that this tenancy is over.

Section 55 of the *Act* reads in part as follows:

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 find that the landlord's One Month Notice was issued on the correct form and included all of the required information in order to comply with section 52 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the One Month Notice and issue the landlord an Order of Possession in accordance with section 55(1) of the *Act*.

Conclusion

I dismiss the tenant's entire application without leave to reapply. The One Month Notice to End Tenancy for Cause dated May 13, 2022 is confirmed, it is of full effect and force. The tenancy is terminated. I grant an Order of Possession to the landlord effective **two days 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: September 06, 2022

Residential Tenancy Branch