



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

File #910071275: CNC, MNDCT

File #310070607: OPC

Introduction

The Tenant seeks an order pursuant to s. 47 of the *Residential Tenancy Act* (the “*Act*”) cancelling a One-Month Notice to End Tenancy signed on April 12, 2022 (the “One-Month Notice”). The Tenant filed an amendment to his application in which he claims a monetary order for \$31,200.00 in compensation pursuant to s. 67 of the *Act*.

The Landlord files its own application seeking an order of possession pursuant to s. 55 of the *Act* after issuing the One-Month Notice.

R.W. appeared as the Tenant. T.A. appeared as agent for the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Landlord’s agent advised that the One-Month Notice was posted to the Tenant’s door on April 12, 2022. The Tenant acknowledges receipt of the One-Month Notice. I find that the One-Month Notice was served in accordance with s. 88 of the *Act*.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Preliminary Issue – Tenant's Amendment

Rule 4.1 of the Rules of Procedure permits an applicant to amend their claim by filing the appropriate forms with the Residential Tenancy Branch. Rule 4.3 requires the amendment to be filed as soon as possible and at least 14 days prior to the hearing.

Within Rule 4.1, there is specific reference to Rule 2.3 of the Rules of Procedure, which requires claims to be related to one another. Hearings before the Residential Tenancy Branch are generally scheduled for one hour. Rule 2.3 of the Rules of Procedure is intended to ensure a timely and efficient dispute process by limiting application to claims that are related to one another

In this instance, I find that the Tenant's monetary claim is not sufficiently related to the primary issue of the applications, which is the enforceability of the One-Month Notice. Both claims deal with separate considerations and require separate findings. Pursuant to 2.3 of the Rules of Procedure, I sever the Tenant's claim under s. 67, which is dismissed with leave to reapply.

The hearing proceeded strictly on the enforceability of the One-Month Notice.

Issues to be Decided

- 1) Should the One-Month Notice be cancelled?
- 2) Is the Landlord entitled to an order of possession?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenant took occupancy of the rental unit on March 1, 2016.
- Rent of \$535 is due on the first day of each month.
- The Landlord holds a security deposit of \$213.00 in trust for the Tenant.

A copy of the tenancy agreement was put into evidence by the Landlord. The Landlord's agent advised the Landlord is a not-for-profit society that aims to provide housing for

low-income seniors. I was advised that the rental unit is part of a larger multi-unit residential property.

The Landlord's agent advised that the One-Month Notice was issued following a series of complaints levied against the Tenant by other occupants at the building. The One-Month Notice, a copy of which was provided by the parties, indicates it was issued as the Landlord alleges the Tenant had seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

The Landlord's agent alleges that the Tenant has a history of being verbally aggressive and threatening to his neighbours. The Landlord's agent further alleges that the incidents appear to be triggered by the Tenant when he hears any noise within the area of his rental unit.

Specifically, it is alleged that the Tenant threatened another occupant of the residential property in the laundry room. The Landlord's evidence includes an email dated February 22, 2022 from A.M., who identifies herself as an assistant for C.G. that lives in the building. The email includes an allegation from C.G. in which she says that the Tenant entered the laundry room on February 21, 2022 asking her whether he would have sex with her. C.G. alleges the Tenant left the laundry room and returned with a butcher knife waving it about threatening that he would kill her if she did not have sex with her. C.G. says that she pushed him out of the way with her walker, ran down the hall to her room and locked the door. While she ran, C.G. says the Tenant was yelling at her accusing her of putting slop at his door. C.G. is said to have contacted the police following the incident.

The Tenant denies the incident of February 21, 2022. He says that he went to the laundry room to tell them to quiet down but did not proposition C.G. for sex nor threaten her with a weapon. The Tenant's evidence includes written submissions in which he finds C.G. to be "extremely unattractive" and that the thought of having sex with her is "extremely repulsive". The Tenant says the police interviewed him following the alleged incident and found no evidence of threats, that there was no evidence of criminal conduct, and that they left.

The Landlord's evidence includes a letter from a M.S.M. dated February 24, 2022. In it, M.S.M. alleges that she was visiting her brother at the building on February 21, 2022 when she heard yelling from the hallway. M.S.M. says that she looked through the peephole to see the Tenant yelling at C.G. as C.G. moved quickly to her suite. M.S.M.'s

statement indicates that she heard the Tenant call C.G. a loser and a low life and that the Tenant was going to show her how much of a low life she was.

M.S.M.'s statement also includes an allegation in which she says that two weeks prior to February 21, 2022 she was visiting her brother when the Tenant began to kick on the rental unit door. Again, M.S.M. looked through the peephole to see the Tenant was on the other side with "a bottle of alcohol and carving the edge of the door frame with a knife". M.S.M. says that she and her brother barricaded the door with a chair and that she was too fearful to leave or leave her brother alone. M.S.M. states that she spent the night rather than leave.

The Tenant's written submissions include a handwritten note in which he alleges that M.S.M. and C.G. are colluding and fabricating evidence against him. In his written submission, the Tenant denies scratching the door frame with a knife and asks why M.S.M. did not contact the police.

The Landlord's agent further alleges an incident in which one of the Landlord's employees, E.B., was followed by the Tenant on her transit route home. The Landlord's evidence includes a statement from E.B. dated March 21, 2022 in which she alleges the Tenant sat next to her on the bus on March 16, 2022, began to talk to her very loudly about other tenants at the building, and seemed intoxicated. E.B. states that she did not respond and the Tenant aggressively asked her why she was not responding. E.B. says that she told the Tenant that it was not appropriate to speak about these matters, that she was not working, and that they could discuss it the next day when she was at work. E.B. further states that the Tenant followed her when she got off the bus. The statement includes another similar incident alleged to have occurred approximately 2 years ago.

The Landlord's agent testified that E.B. was fearful of her interactions with the Tenant and that he escorted E.B. to the bus stop after work. The Landlord's agent testified that E.B. has since quit working for the Landlord, citing amongst her reasons her interactions with the Tenant.

The Tenant denies the incidents alleged by E.B. and says that it is entirely fabricated. The Tenant says that he did happen to be passing by E.B. when they were walking through the turnstiles at the transit station on one occasion and told her that she better have a good lawyer.

The Tenant went on to discuss various issues that he had with others within the residential property, including an individual he identified as the “music terrorist” who played booming music within the building. He says the music terrorist is malicious and that he threatened the Tenant on one occasion that he would take him outside and bury him. The Tenant further testified that someone poured “slop” on his door, that he has been threatened by another tenant with golf clubs, and that another occupant threatened to rip his head off. The Tenant identified another individual as the “water terrorist”, who he says has place restrictions on the Tenant’s use of water between 11:00 PM and 6:00 AM. The Tenant alleges that the Landlord has failed to adequately protect his right to quiet enjoyment.

The Tenant’s evidence includes various notes that are addressed to different unit numbers within the residential property. A series are addressed to the same rental unit and pertain to the dispute regarding water usage. One note states:

Hey [Unit Number]
Why you think U gonna control my water. THAT IS A BAD DESION!! I don’ like double DAA “Fs” like you
Right now, I do what I want with my water. Do you know wha I saying U double DUMB FUCK.

Another reads:

You [Unit Number]!
You have no idea how your controlling my water rights so much affects my SOUL.
No free rides in FREE countries [unit number]. I’m sure your trying to control me give you great pleasure. But realize! There are no free rides in FREE societies.
You will pay!!
[Signed Tenant’s rental unit]
You FUCK

I have redacted identifying information from the above reproductions.

The Landlord’s agent indicates that warning letters had been issued to the Tenant with respect to the various incidents. The Landlord’s evidence includes copies of the warning letters. The Tenant confirmed he received the warning letters, says he is a good tenant, and that his rent is paid on time.

Analysis

The Tenant applies to cancel the One-Month Notice. The Landlord seeks an order of possession.

Under s. 47 of the *Act*, a landlord may end a tenancy for cause and serve a one-month notice to end tenancy on the tenant. Pursuant to s. 47(4) of the *Act*, a tenant may file an application disputing the notice but must do so within 10 days of receiving it. If a tenant disputes the notice, the burden for showing that the one-month notice was issued in compliance with the *Act* rests with the landlord.

In this instance, the One-Month Notice was issued under s. 47(1)(d)(ii). I have reviewed the One-Month Notice and find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

There is a dispute with respect to the various allegations raised by the Landlord. I have reviewed the evidence and considered the testimony of the parties. I place significant weight on the notes provided by the Tenant in his evidence, which are reproduced above. It is clear from the contents of the notes are that they were authored by the Tenant and I take it from their contents they are directed to the “water terrorist”. Indeed, one of them is signed off with the Tenant’s rental unit number. I find that the tone of the letters rise above what may be considered a mere disagreement between occupants at a building. In particular, the Tenant threatens the other occupant would “pay” and the other is of a menacing nature. I find that notes confirm the Landlord’s allegation that the Tenant acts in an aggressive and confrontational manner toward the other occupants.

Dealing with the primary allegations raised by the Landlord in the One-Month Notice and in its submissions, I find that it is more likely than not that both sets of incidents on February 21, 2022 and March 16, 2022 occurred as alleged by the Landlord. Looking first at the incident of February 21, 2022, the Tenant denies the incidents occurred. Counterposed to that is the statement of C.G., as transmitted by her assistant A.M., which details a serious incident in which the Tenant propositioned C.G. for sex with a weapon. C.G. is said to have run down the hallway to her rental unit with the Tenant yelling at her, which is confirmed by M.S.M.’s statement.

The Tenant alleges that C.G. and M.S.M. colluded to fabricate evidence against him. I do not find that to be likely. The Tenant's own evidence confirms a series of disputes he has with other occupants. Throughout all these disputes, the Tenant casts himself as the aggrieved party and that others simply do not respect him or his polite requests to quiet down. It is implausible, in my view, that the Tenant would have been targeted by the other occupants at the building, many of whom the Landlord's agent confirmed have raised complaint with respect to the Tenant's conduct. Again, the Tenant's conduct is, in certain respects, confirmed by his own evidence, particularly the notes I mention above.

Similarly, I find that it is more likely than not the Tenant followed E.B. on public transit on March 16, 2022 as alleged in her statement of March 21, 2022. Again, the Tenant denies this took place. However, it is again unlikely that E.B. would have fabricated this evidence, all of which carries a similar narrative to that provided by C.G. and M.S.M.. E.B. is an employee of the Landlord and has a lawful right to enter the residential property as par of her duties. The Landlord's agent testified and I accept that he escorted E.B. to the bus stop due to her concerns with respect to the Tenant and that E.B. left her employment in part due to the Tenant's conduce.

The statements of E.B., C.G., and M.S.M. all speak to a level of fear they have of the Tenant. I do not find that their fear is misplaced based on the evidence before me.

I find that the Landlord has established that the Tenant's conduct, particularly the incidents of February 21, 2022 and March 16, 2022, constitute a serious jeopardization of the safety and lawful right or interest of the other occupant and the Landlord's employee to the residential property. I am satisfied that the One-Month Notice was properly issued.

Accordingly, I dismiss the Tenant's application cancelling the One-Month Notice. I find that the Landlord is entitled to an order of possession under s. 55.

Conclusion

The Tenant's monetary claim is severed pursuant to Rule 2.3 and is dismissed with leave to reapply.

The Landlord has established that the One-Month Notice was properly issued. Accordingly, the Tenant's claim to cancel the One-Month Notice is dismissed without leave to reapply.

I grant the Landlord an order of possession pursuant to s. 55 of the *Act*. The Tenant shall provide vacant possession of the rental unit to the Landlord within **two (2) days** of receiving the order.

It is the Landlord's obligation to serve the order of possession on the Tenant. If the Tenant does not comply with the order of possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that 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 *Residential Tenancy Act*.

Dated: September 06, 2022

Residential Tenancy Branch