



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, OPC, CNC, OLC**

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties pursuant to the *Residential Tenancy Act* (the "*Act*") for Orders as follows

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The tenant applied as follows:

- For cancellation of a One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to section 47 of the Act
- For an order requiring the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62 of the Act

The landlord applied as follows:

- For an order of possession pursuant to section 55 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

Both parties attended the hearing with the landlords being represented by agents SN and JW, the property managers, while the tenant, VB appeared along with NA, an agent. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

Both parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant confirmed receipt the One Month Notice to End Tenancy ("One Month Notice") dated June 3, 2022. Pursuant to section 89 of the *Act* the tenant is found to have been served with the notice in accordance with the *Act*.

The tenant acknowledged receipt of the One Month Notice on June 3, 2022. It had been affixed to the front door by the landlord on that date. Service of the One Month Notice is in accordance with section 89 of the Act.

The tenant served the dispute notice dated June 7, 2022 and evidence package on the landlord by registered mail. The landlord acknowledged receipt of the tenant's package on June 17, 2022. The landlord served their dispute notice and evidence package on the tenant by registered mail on September 20, 2022 and the tenant acknowledged receipt of the package. Service on both parties is in accordance with sections 88 and 89 of the Act.

Preliminary Issue

The tenant has requested an order that the landlord comply with the Act, regulations or tenancy agreement. This portion of the tenant's application is severed pursuant to Rule 2.3 of the RTB Rules of Procedure as it is unrelated to the main application. The tenant has leave to reapply on this issue.

Issue(s) to be Decided

1. Is the One Month Notice to End Tenancy for Cause valid and enforceable against the tenant? If so, is the Landlord entitled to an Order of Possession?
2. Is the landlord entitled to reimbursement for filing fees?

Background and Evidence

The tenancy commenced on February 1, 2020, for a fixed term until January 31, 2021 and on a month to month basis thereafter. Rent is currently \$1725.00 per month. The landlord holds an \$850.00 security deposit in trust for the tenant.

The property manager SN spoke on behalf of the landlord. He stated that he issued the One Month Notice after giving the tenant four warning letters regarding her behaviour. The warning letters were dated June 7, 2021, February 24, 2022, March 14, 2022, and May 17, 2022.

The warning letters were issued because the tenant was communicating with the property manager JW in a way that JW felt was harassing and causing him distress. Numerous letters were placed under JW's door by the tenant, and she was calling him

many times at inappropriate hours, for example 6:00am. The tenant's constant communication was causing JW stress and he took three days of sick leave due to his distress over the unwanted communication. This affected building operations. The previous property manager, GE, issued the first warning letter, and the following three warning letters were issued by SN. Each letter advised the tenant that her communications with JW were inappropriate, and she was instructed not to communicate directly with JW but instead to address her concerns to the previous manager or to SN. SN stated that the warnings were not followed, instead of ceasing communication with JW, the tenant escalated her communication with him.

SN also provided several examples of the letters written by the tenant to both him and JW. He also described voicemails left by the tenant that contained inappropriate language and accusations. He also provided an email sent by another occupant of the building complaining about being harassed by the tenant.

The tenant denied receiving the first warning letter on June 21, 2021. The tenant admitted to communicating with JW after receiving the other warning letters and explained that she was only doing so because she needed help dealing with another occupant who was harassing her.

The tenant stated that she was upset and frustrated due to conflict with another tenant, and her goal was to resolve the conflict with the help of the property managers, specifically JW.

Analysis

The One Month Notice meets the form and content requirements of section 52 of the Act and is therefore valid and enforceable. The listed reasons for the One Month Notice were that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health, safety or the lawful right of another occupant or the landlord, and breached a material term of the tenancy agreement that was not corrected within a reasonable time after being given written notice to do so. Section 47 of the Act states:

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,

The tenant received multiple warnings about her communications with the property manager JW. She was specifically instructed on several occasions to refrain from communicating with him. She was given an alternate contact, the other property manager, SN. She did not follow the instruction and continued to communicate with JW.

The evidence from SN is that the communications with JW after issuing the warnings were extreme, sometimes four or five letters a day were placed under his door. The tenant estimated that the number of letters was less than what was suggested by the landlord, however she also acknowledged that she could not remember specifically due to health issues. I therefore prefer the evidence of the landlord, which is supported by the letters sent by the tenant to JW, and provided in evidence.

I find based on the evidence that the tenant's communications with JW unreasonably disturbed him. He was unable to perform his duties on some days because of the stress he experienced from the tenant's communications, and this affected building operations. The tenant was given numerous warnings to stop communications and those warnings did not deter her behaviour. The tenant's explanation for the further communication, to resolve issues with another tenant, is not a valid reason to ignore the warning letters. The landlord gave her other options for communication with the property management staff.

The landlord is entitled to an order of possession for the rental property. As the landlord was successful in their application, they are also entitled to recovery of the filing fee for their application.

Conclusion

I find the landlord is entitled to an order of possession, which will be effective two days after it is served on the tenant.

Having been successful, I also find the landlord is also entitled to recover the \$100.00 filing fee paid to make the application. Using the offsetting provisions contained in

section 72 of the *Act*, I allow the landlord to retain \$100.00 from the tenant's security deposit in full satisfaction for a return of the filing fee.

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: October 24, 2022

Residential Tenancy Branch