



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC LRE OLC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on October 3, 2022. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "*Act*").

Both parties attended the hearing and provided affirmed testimony. The Tenant had his legal counsel present, and the Landlord had a witness present. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord confirmed receipt of the Tenant's applications, and evidence. The Tenant confirmed receipt of the Landlord's evidence. Neither party took issue with the service of these documents.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss unrelated matters, with leave to reapply, on the Tenant's application with the exception of the following claim:

- to cancel the 1 Month Notice to End Tenancy for Cause.

Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's 1 Month Notice (the Notice) cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

A copy of the tenancy agreement was provided into evidence which shows that the tenancy started on or around May 28, 2020. Monthly rent was set at \$1,000.00 and was due on the first of the month.

The Tenant acknowledged receiving the Notice on June 23, 2022. The Landlord issued the Notice for the following reasons:

Tenant or a person permitted on the property by the Tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the Landlord.*
- *put the Landlord's property at significant risk.*

Under the details of cause section on the Notice, the Landlord stated that: on October 10, 2021, and on May 22, 2022, the Tenant threatened another Tenant residing in the adjacent rental unit. The Landlord also noted that on May 31, 2022, the Tenant threatened to burn down the Landlord's house.

During the hearing, the Landlord was asked to explain why the Notice was issued, and she stated that it was issued because of an incident on May 31, 2022, where the Tenant threatened to burn her house down. The Landlord loosely referred to other incidents with the Tenant but focused mainly on the May 31, 2022, incident as a basis for the Notice.

During the hearing and in her written submissions, the Landlord explained that there was an issue with the hot water and she had a plumber attend the rental unit on May 31, 2022. The Landlord stated that after the plumber left, he turned the main water back on. However, she noticed that, later that day, the water was not as hot as it should be. The Landlord explained that, later that day, the Tenant came to knock on her door (she lives upstairs), and stated his hot water wasn't working in an aggressive manner. After the Landlord closed the door, she stated that she heard the Tenant go back around to his back door, and slam the door violently. The Landlord stated that she could hear him yelling "wait until I burn your F****ing house down", which he said more than once.

The Landlord stated that she immediately called the police and was advised by the office to pursue eviction. The following day the Landlord stated that the plumber returned to turn the hot water tank back on, as he had forgot to do so after he finished his work the previous day.

The Landlord stated that she is fearful for her safety and she fears the Tenant will follow through with his threats to burn the house down. The Landlord also brought a witness, A.H., to the hearing. A.H. testified that he also lives in the basement of the Landlord's house, adjacent to the Tenant and the rental unit in question. He testified that he has heard the Tenant have several negative, hostile, interactions with the Landlord. A.H. also stated that the Tenant has been aggressive and hostile with him as well in the last couple of years.

A.H. testified that he overheard the incident on May 31, 2022, and at around 8:30 pm, he heard the sound of the Tenant's door slamming, and since his door was ajar, he was able to hear clearly what the Tenant said to the Landlord after he had gone upstairs to complain to the Landlord about his hot water. A.H. stated that he clearly heard the Tenant say he was going to burn the house down. A.H. stated he specifically heard the

Tenant say “if you think I’m a bad Tenant now, wait until I burn your house down.” A.H. also provided a signed written statement reiterating that the Tenant made the above noted threats, numerous times.

The Landlord also provided a different signed and written witness statement from her son, L.L., who lives upstairs with her in her suite. He stated that he heard the Tenant come to their front door and complain of not having hot water, and that he was going to get back at the Landlord for it. L.L. then noted that he heard the Tenant state “if you think I’m a bad Tenant now, wait until I burn your F***ing house down”.

The Tenant and his legal counsel provided some context regarding the history of disputes between the parties. More specifically, that the Landlord and the Tenant have a history of not getting along, and that the Landlord has tried several times to evict the Tenant (expedited hearings, 2 month notice’s etc). The parties have had numerous hearings, and the Landlord has not been successful in her past disputes in terms of ending the tenancy.

The Tenant denied making any physical threats to the Landlord or her property. The Tenant noted that he is aware the Landlord has an illegal suite in her basement, and at one point he had considered following up with the municipality. The Tenant acknowledged that he has had some disagreements with the Landlord and the other Tenant in the other suite. However, he disagrees that he has been aggressive, or threatening in any way. The Tenant suggested that he is be targeted by the Landlord, without any basis.

The Tenant provided evidence showing different communications between the parties, different notes, and some videos of the suite inspections. The Tenant also provided a copy of the RCMP police report, regarding the incident on May 31, 2022. Specifically, the Tenant pointed out that the police spoke with both parties and noted that there were “no threats”.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy. More specifically, since my findings hinge on the incident on May 31, 2022, it is not necessary to speak to, resolve and address the

other issues with respect to the previous incidents and other dysfunctional interactions between the parties.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid.

I turn to the first ground indicated on the Notice:

1. Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The Landlord focused on the incident on May 31, 2022, as the basis for this Notice. I note the parties do not agree as to what transpired that evening. However, it is clear that there was some sort of plumbing issue, and the Tenant attended the Landlord's door to discuss the issue. The Landlord stated that the Tenant threatened to burn her house down after complaining about his lack of hot water. The Tenant denies that he made any threats on May 31, 2022. I note these versions of events are competing. When weighing these two versions of events, I note the Landlord had a witness (the Tenant who lives adjacent) attend the hearing and provide affirmed testimony, which is consistent with her statements, that the Tenant threatened to burn the house down. This individual also provided a signed witness statement. I also note the Landlord provided a second signed witness statement from her son, who was also present, to corroborate that he heard the Tenant threaten to burn the house down, after a heated altercation about the water. I note the Tenant denied saying anything threatening, and pointed to the police report which shows that there were "no threats." However, I note there is no elaboration in this police report as to what "no threats" means, and whether it refers to the fact that no threats were made, or that he perceives no risks/threats going forward.

When weighing these two versions of events, I find the Landlord and her witnesses have provided a more detailed and compelling version of events, and I find it more likely than not that the Tenant threatened to burn the house down, after he confronted the Landlord about the hot water issue on the evening of May 31, 2022. I accept that this statement made by the Tenant would cause the Landlord an ongoing unreasonable disturbance, and concern over the potential for the Tenant to execute on his threats to burn down the house.

I find the Landlord had sufficient grounds to issue the Notice. The Tenant's application to cancel the Notice is dismissed. The tenancy is ending.

Under section 55 of the *Act*, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession. I find that the Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession.

As the Tenant was not successful with the application, I dismiss the claim to recover the cost of the filing fee.

Further, given my findings thus far, it is not necessary to consider the other grounds on the 1 Month Notice.

Conclusion

The Tenant's application to cancel the 1-Month Notice to End Tenancy for Cause is dismissed. Further, I dismiss the Tenant's request to recover the cost of the filing fee.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be 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: October 5, 2022

Residential Tenancy Branch