



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC FFT

Introduction

This hearing was held pursuant to an Application for Dispute Resolution (“application”) seeking remedy under the *Residential Tenancy Act* (“Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated May 20, 2022 (“1 Month Notice”) and to recover the cost of the filing fee.

The tenant and the landlord attended the teleconference hearing and were affirmed. At the start of the hearing, I introduced myself and the participants. The parties had the dispute resolution process explained to them and were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed testimony evidence and to make submissions to me.

Other than audio files, which ended up being moot for this hearing, there were no service issues raised. The parties confirmed having been served with documentary evidence by the other party and having the opportunity to review that documentary evidence.

Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?
- Should the landlord be ordered to comply with the Act, regulation or tenancy agreement?
- Should the tenant recover the cost of the filing fee under the Act?

Background and Evidence

The tenancy began on May 1, 2019. A copy of the tenancy agreement was submitted in evidence.

The tenant confirmed that they were served on May 24, 2022 with the 1 Month Notice alleging three causes. Although neither party included a copy of the 1 Month Notice in evidence, both parties confirmed that the three causes are listed as follows:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health and safety or lawful right of another occupant or the landlord.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

The tenant disputed the 1 Month Notice on May 30, 2022, which is within 10 days of being served with the 1 Month Notice. The effective vacancy date on the 1 Month Notice is listed as June 30, 2022, according to the parties.

The parties agreed that the 1 Month Notice indicated the following Details of Dispute on the 1 Month Notice:

- A. December 2021 the tenant barricaded the landlord's walking path and harassed the landlord while the landlord was taking their regular daily walk.
- B. January 31, 2022 the tenant emailed the landlord informing them that the tenant had locked them out of the shop.
- C. February 6, 2022 the tenant emailed the landlord threatening the landlord that they will visit at night while the landlord was sleeping if they needed a key to the shop padlock.
- D. March 13, 2022 the tenant confronted and physically blocked the landlord from leaving the shop after the landlord opened the shop padlock at the tenant's request because the tenant lost their key. The landlord shouted for help in order to escape and reported the incident to the RCMP.
- E. 2021 and ongoing; fire hazard caused by tenant improperly and unsafely storing dozens of containers of paint and other flammable, combustible fluids inside the shop.

Regarding A above, the landlord testified that upon returning home from their daily walk, the tenant built a barricade on the walking path, resulting the landlord being blocked from the walking path. The landlord testified that section 13 of the tenancy agreement was breached by the tenant. Section 13 reads as follows:

XIII. ACCESS

Margaret will continue to use her existing walking path to walk between her house and the driveway. The tenant will keep the path free of any obstruction or tripping hazard.

The tenant stated that the walking path is their garden and later confirmed that they did use plywood to block the walking path. The tenant stated that they blocked the walkway due to recent thefts. The tenant confirmed that they knew of section 13 of the tenancy agreement and that they signed the tenancy agreement.

The parties were advised at this point of the hearing that based on the wording of section 13 of the tenancy agreement, and the admitted violation of that section by the tenant, and given what I find to be an acrimonious relationship between the landlord and the tenant, the parties were advised that I found the 1 Month Notice was valid and that I did not need to hear additional evidence related to B, C, D and E noted above.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

1 Month Notice to End Tenancy for Cause – As the tenant admitted that they used plywood to barricade or otherwise block the pathway. Section 13 of the tenancy agreement indicates that the landlord will use the existing walking path to walk between their house and the driveway and that **the tenant will keep the path free of any obstructions or tripping hazard.** I find the tenant breached section 13 of the tenancy agreement by their own admission.

As a result of the above, I find that the landlord has met the burden of proof by proving that that the tenant has unreasonably disturbed the landlord. Given the above, **I dismiss** the tenant's application in full, without leave to reapply. I uphold the landlord's 1 Month Notice.

I find it is not necessary to consider the other causes listed on the 1 Month Notice as the landlord only needs to prove one ground listed on the 1 Month Notice. Section 55(1) of the Act states:

Order of possession for the landlord

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.**

[emphasis added]

Given the above and considering that I find the 1 Month Notice complies with section 52 of the Act, **I must grant** the landlord an order of possession. As the parties confirmed that money has been paid for October 2022, I grant an order of possession effective **October 31, 2022 at 1:00 p.m.**

I find the tenancy ended on June 30, 2022, which was the effective vacancy date listed on the tenancy agreement, which has passed.

Conclusion

I dismiss the tenant's application to cancel the 1 Month Notice to End Tenancy for Cause. I uphold the 1 Month Notice issued by the landlord.

The tenancy ended on June 30, 2022.

The landlord is granted an order of possession effective **October 31, 2022 at 1:00 p.m.** This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

Should the tenant fail to comply with this order, the tenant is cautioned that they could be held liable for all costs related to the enforcement of the order of possession.

This Decision will be emailed to both parties.

The order of possession will be emailed to the landlord for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 3, 2022

Residential Tenancy Branch