



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), to cancel a One Month Notice to End Tenancy for Cause dated June 1, 2022 ("One Month Notice"); to suspend or restrict the Landlord's right to enter; for an Order for the Landlord to Comply with the Act or tenancy agreement; and to recover his \$100.00 Application filing fee.

The Tenant and the Landlord appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. Four witnesses for the Tenant, J.V., S.M., R.V., and T.G. were also present, although only R.V. was called upon by the Tenant to provide affirmed testimony in the hearing.

During the hearing, the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Tenant provided his email address in the Application, and the Landlord provided hers in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Early in the hearing, I advised the Parties that Rule 2.3 authorizes me to dismiss

unrelated disputes contained in a single application. In this circumstance, the Tenant had indicated different matters of dispute on the Application, the most urgent of which is the claim to set aside a One Month Notice. I found that not all the claims on the Application were sufficiently related to be determined during this proceeding. I, therefore, only considered the Tenant's request to set aside the One Month Notice and the recovery of his filing fee at this proceeding. Therefore, the Tenant's other claims are dismissed, with leave to re-apply, depending on the outcome of this hearing.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Should the One Month Notice be cancelled or confirmed?
- Is the Landlord entitled to an order of possession?
- Is the Tenant entitled to Recovery of his \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the periodic tenancy began on March 1, 2014, with a monthly rent of \$750.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$375.00, and no pet damage deposit.

The Tenant submitted a copy of the One Month Notice, which was signed and dated June 1, 2022, and which has the rental unit address. The One Month Notice was served by leaving a copy in a mailbox or mail slot on June 1, 2022, and it has an effective vacancy date of June 30, 2022, which is automatically corrected by the Act to July 31, 2022. The One Month Notice was served on the grounds that the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord. The Landlord wrote extensive notes in the "Details of Cause(s)" section of the One Month Notice, some of which are noted below.

In the hearing, the Landlord explained why she issued the One Month Notice, as follows:

On Monday, May 2, [2022], I started researching to switch insurance companies. I then had to switch the 4-plex insurance to another company. There is a clause

that said to get the policy you want, all tenants had to purchase tenants' insurance. Units 1, 2 and 4 all went and did it immediately. They had no problem.

[The Tenant] was the last person I went to, and his house guest, girlfriend was sitting on the couch when he let me in, and I explained it to them. She was sitting on the couch and when I told them this, she immediately called me out saying they don't have to do it. She called my agent and argued with him. I informed them – I said it should be a choice - but more and more clauses of insurance providers like this are becoming law, and I told them that twice. I gave them all the information and I left.

I asked the Tenant to comment on the Landlord's testimony, and I asked him why he refused to get insurance for his possessions. The Tenant said: "They asked me in four days. My Mom had to pay for it. It's not in my tenancy agreement."

The Landlord said:

He finally got insurance, but it was down to the wire within like – on Monday - and on Tuesday I needed a copy of his fire insurance to submit to the insurance company.... It was very tight, really.

The Landlord confirmed that everything worked out, because the Tenant's parents paid for his contents insurance. I then asked the Landlord how the Tenant is still in the wrong according to the One Month Notice, and she said:

His house guest girlfriend [S.M.], who was objecting and do all the talking, wouldn't allow [the Tenant] to get a word in edgewise. They claimed I was harassing them. On May 30, I texted him 2 – 3 times to see if he was getting insurance. He didn't answer; I guess he was at work. I called again on the Monday and the phone wasn't answered. In the 3rd call, they were getting insurance.

They finally got the insurance, but until May 28 [S.M.] was arguing that they weren't going to. I said that I needed to talk to [the Tenant] to get this resolved. It was [S.M.] who was saying that they didn't have to and weren't going to.

In September, they had a 3-day house party and he's been served with a One Month Notice for the party. It's a family-oriented building, not for partying.

The Tenant replied:

[The Landlord] texted me while I was getting insurance, which was really upsetting; I broke out in hives. She called me about three times a day. She called when I got off at work. I told her I was going down to the insurance to get insurance. I couldn't afford it, but my parents paid for it.

The Parties also testified about having trouble with each other when the Landlord would attempt to show the property to potential buyers. In the "Details of Cause(s)" section of the One Month Notice, the Landlord wrote the following about this aspect of the grounds for eviction.

Sunday May 09/22 all tenants were informed by text that a client was scheduled to view all units as 4-plex for sale, Sunday May 28/22 12:00 pm meeting was cancelled as client had an emergency. I informed all tenants on Monday May 30/22. [The Tenant] was issued a written warning and a request his house guest leave by Wed June 1/22. I hand delivered as I do not trust him with any other method because of past experience.

Client re-scheduled viewing for Tues May 31/22 at 6:30 pm. All tenants were informed. A few minutes before client arrival, I rang door bell at [Tenant's unit]; I asked that [the Tenant's] Dad and house guest not be present as I did not want any drama. They said no they were staying. [The Tenant] said that house guest did not have to leave. I said yes she was to leave by June 2/22. Warning [the Witness] shook papers at me and said I better read this. I stated I have already talked to tenancy.

The Tenant's Dad, R.V., - the Witness - stated the following in the hearing:

[The Tenant] had called me to tell me he'd had problems with his Landlord calling and banging on the door all times of day. There was no notice she was coming. She said she was viewing with the client and would be there at 5 p.m. I brought the Landlord/Tenant papers and I went there. She didn't show up until 6:35 p.m.

Myself, and two sons, and [S.M.] were there. [The Tenant] answered the door and [the Landlord] looked in. She said I don't want any drama here pointing at me and [S.M.] – us two had to leave. I told her I have the papers to the Landlord and Tenant Act, and she said I know what I'm doing. I said no, you don't. At no time was I raising my voice. She slammed the door. When I opened the door,

she was running across the hall and locked herself in. I told my son to call the RCMP. We explained about all the harassment from the Landlord and the RCMP talked to the Landlord, and at that point she was prevented from showing my son's unit that day.

The Landlord replied:

Because of [S.M.'s] interference, on Monday May 30/22, [the Tenant] was given the warning. I could ask this frequent house guest - I could give her a time to leave, which was June 1, 2022. Which was a Wednesday. [The Tenant] said she was leaving on Friday, but she stayed for the whole month of June. They ignored the warning and she stayed.

So, when [the Witness] is talking about when that was – May - the viewing was cancelled, because she had an emergency, but since I was already there in the building, I informed my tenants that it was cancelled and rescheduled to the next day.

I showed up at approximately 20 minutes before the meeting – 6:10 - so that I could re-sweep and mop the floors before she came. What [the Witness] is saying is that when I rang the doorbell - I know that the family is high drama - I said please do not have any drama. I did not go inside; I stayed outside the door.

She didn't leave, so any information he had was wrong; I called the RTB back and said that [the Witness] is telling me my information is wrong and his is right. They said that both were right and I did what I was told to do and delivered the warning. He raised his voice, he was yelling. I didn't run across the hall.

I asked if [the Witness] and [S.M.] would please leave for this viewing.

The Landlord continued:

I had a lot of interference from [S.M.] as a house guest while I was conducting my business. She submitted a total of six statements, and this had nothing to do with her. [The Tenant] is my tenant, not her. On May 30 when the viewing was re-scheduled. I did not yell; I talked calmly. I had a potential buyer there and they called the police.

I wouldn't listen to [the Witness], because he jumped up and said you had better

read this. I said can you not have any drama? [The Witness] was yelling. He was shaking the papers at me. [The Tenant], [S.M.] and [the Witness] were arguing.

When the police showed up, I was downstairs showing unit #2. She had gone through #4 and #2 downstairs, There was a police officer standing at the top of the stairs with his arm crossed. The police have come seven times for this tenancy.

I took him upstairs, and my client had to go through the unit herself. They walked away from the deal. She said it was a shit-show because the police were there. They were very, very interested, and they walked away from it. She didn't go into that unit, because I didn't feel safe with [the Witness's] behaviour.

. . .

What [the Tenant] has done: I have a new tenant and he has cornered her outside saying she is paying too much rent. He wasn't to continue living there at that price, and the unit #2 tenant lived there for seven months, and said, 'Why am I paying \$1,250.00 when [the Tenant] is paying \$750.00?' This is what he does with every single one of my tenants.

Analysis

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

Section 47 of the Act allows the landlord to end a tenancy for cause:

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,

. . . or

(iii) put the landlord's property at significant risk;

Rule 6.6 sets out the standard of proof and the onus of proof in dispute resolution proceedings, as follows:

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

In this case, the Landlord alleged that the Tenant's girlfriend and father interfered with the Landlord's business of being a Landlord in terms of requiring tenants' insurance and in trying to show the unit to a potential buyer. I find that S.M. aggressively discouraged the Tenant from obtaining insurance, which he ultimately did. And further, I find that the Landlord was correct in her concern that S.M. and the Witness would interfere with her showing the residential property to a potential buyer. I find that the Witness encouraged the Tenant to call the police on the Landlord when she was trying to show a potential buyer the residential property – the Witness said: "I told my son to call the RCMP". Based on the evidence before me, I find it more likely than not that the presence of the police during the showing contributed to the buyer walking away from the deal.

Based on the evidence before me, overall, I find I agree with the Landlord. I find that [S.M] and the Witness, but especially [S.M.] significantly interfered with and unreasonably disturbed the Landlord in doing her course of business. I find that the Tenant's guests significantly interfered with and unreasonably disturbed the Landlord with their behaviour in trying to hinder her ability to do her job.

When I consider all the evidence before me overall, I find that the Landlord has provided sufficient evidence to meet her burden of proof on a balance of probabilities, and to support the validity of the One Month Notice. I also find that the One Month Notice issued by the Landlord complies with section 52 of the Act as to form and content. Given the above, and pursuant to section 55 of the Act, I find that the Landlord is entitled to an Order of Possession.

Accordingly, and **pursuant to section 55** of the Act, I award the Landlord with an **Order of Possession** for the rental unit. Given that the effective vacancy date on the One Month Notice has passed, the **Order of Possession will be effective two days** after the Tenant receives the Order.

Conclusion

The Tenant is unsuccessful in his Application to cancel the One Month Notice, as the Landlord provided sufficient evidence to meet her burden of proof in this matter. I dismiss the Tenant's Application wholly, as I find that the One Month Notice is valid and effective as of July 31, 2022.

Pursuant to section 55 of the Act, I grant an **Order of Possession** to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms. This Order must be served on the Tenant by the Landlord as soon as possible, and may be filed in 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: October 27, 2022

Residential Tenancy Branch