



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KIWANIS VILLAGE SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on November 14, 2022. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the "Notice")

The Landlord was represented at the hearing by two agents, M.A. and M.V. The Tenant was also present at the hearing with his legal counsel and advocate, D.K. All parties provided affirmed testimony. 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 Notice of Dispute Resolution Proceeding and evidence packages, and did not take issue with the service of those documents.

The Tenant's advocate confirmed that they received the Landlord's evidence package on or around November 4, 2022. The Landlord also stated that they served the Tenant with this package, in person, on November 2, 2022. Although the Tenant denied it being served in this manner, I note that M.A. testified that M.V. personally served the package to the Tenant on November 2, 2022, and M.V. further testified and corroborated that she served the package in this manner. I find it more likely than not that the Landlord served the Tenant, in person, on November 2, 2022. Both parties seemed willing and able to speak to all evidence provided at the time of this hearing.

I am satisfied both parties sufficiently served each other with their evidence for the purposes of this hearing.

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

Issue(s) to be Decided

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

Background and Evidence

The Tenant acknowledged receiving the Notice on June 23, 2022. The Notice indicates the following reasons for ending the tenancy on the second page:

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

- significantly interfered with or unreasonably disturbed another occupant or the landlord.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord issued the Notice for several reasons. 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 whether there are sufficient grounds to end the tenancy. Not all evidence and testimony will be summarized or addressed, unless it directly relates to my findings. In other words, my decision will focus on the first ground identified by the Landlord, as this ground is what my decision hinges upon. Further, the Landlord did not specify in the hearing which material term of the tenancy was breached, so the second ground will not be addressed further.

Under the "details of cause" section on the Notice, the Landlord indicated the following:

Details of the Event(s):

The tenant has continued to be aggressive and disruptive to Society staff after receiving written notice on April 28, 2022, that if there was any further incidents his tenancy would be terminated. On June 7, 2022 he barged into the office multiple times and yelled and screamed at Society staff. On June 15, 2022 he called the Society office multiple times stating he was bored and wanted to argue with the Administrator. On the evening of June 22 and morning of June 23, 2022 he sent out libelous and slanderous emails regarding the Society administrator.

At the hearing, the Landlord, M.A, explained that this rental unit is part of a large subsidized/not-for-profit housing complex. M.A. stated that the Tenant has been living in the rental unit for years now, and they have had ongoing issues with cleanliness and sanitary standards within his rental unit. M.A. explained that the Tenant's wife, who used to reside with him in the rental unit, was admitted to hospital in October 2021. M.A. stated that the hospital would not discharge the Tenant's wife to come back to the rental unit because of the poor cleanliness of the suite. M.A. stated that they have tried to work with the Tenant closely since that time to routinely inspect the rental unit, and try to encourage the Tenant to clean up.

M.A. further explained that the Tenant has not cleaned up, and the regular routine inspections have contributed to the Tenant's hostile behaviour. M.A. explained that the Tenant's wife never was discharged, and eventually passed away in April of 2022, while in hospital. M.A. stated that they have tried to be compassionate for the Tenant's situation, and the stress he is under. However, they have maintained their position that the Tenant needs to clean up his rental unit, which is why the routine inspections are being conducted.

M.A. also noted that there have been numerous complaints from neighbours of the Tenant, who are afraid of him, and his outbursts. M.A. provided a series of warning letters into evidence, dating back to September 2020, for aggressive and belligerent behaviour in and around the complex. M.A. stated that this Notice was issued because the Tenant's behaviour has become increasingly hard to manage, and hostile particularly in the past few months.

M.A. also provided extensive written summaries (office notes), in addition to the warning letters for incidents over the past few years. In the hearing, M.A. focused on the more recent incidents in the spring of 2022.

M.A. provided a written statement, dated April 13, 2022, from another one of the Landlord's agents, M.V., who was a witness at the time of the incident and she was also at the hearing. M.V. indicated in her written statement the following:

At around 8:46 am, the Tenant called the office and asked to speak to the Landlord's agent, M.A. M.V. noted that the Tenant asked that the Landlord stop harassing him, or he is "going international."

M.V. further noted in her written statement that the Tenant called back minutes later and said "I forgot to mention something. I like to win, do you know that? This is a game to me. I don't want to destroy [M.A.]. I love her, but please back off or I will destroy her."

4 minutes later, M.V. reported that the Tenant again phoned back and made a few jokes about his wife and her dire medical situation. Subsequently, at around 9:30 am on April 13, 2022, M.V. noted that the Tenant came to the onsite office where she was working, and tried to pay the Landlord to clean up his rental unit. M.V. stated she reminded the Tenant that he would be responsible for cleaning up, but the Tenant left. About 10 minutes later, M.V. noted that the Tenant called the office to tell them his preferences as to who would be hired for cleaning his rental unit. M.V. informed the Tenant he would have to come back and get the money he left for cleaning, and hire the help himself. However, M.V. noted that the Tenant hung up the phone.

At around 9:50 am, M.V. noted that the Tenant came back to the door of the Landlord's office, at which point M.V. had locked the office door. The Tenant asked if M.V. wanted some "turtles" from the store. Sometime following that, an agent for the Landlord called the non-emergency police phone line to report that the Tenant had been threatening in his interactions earlier. M.V. reported that the Tenant left to go to the store, and when he was gone, M.V. took the opportunity to post a notice to the Tenant's door for his regular suite inspection, without having to risk confrontation with the Tenant.

M.V. reported that when the Tenant returned home from the store, he came down to the office with the suite inspection notice M.V. had just delivered to his door. The Tenant stated he couldn't read the notice M.V. posted, and that he needed her to come outside to read him the notice. However, M.V. noted that the Tenant was in an agitated and scary mental state, and he was trying to enter the locked office. M.V. stated that the Tenant told her that he would be calling about discrimination if she wouldn't read it to him.

M.V. noted that the Tenant counted backwards from 3..2..1.. then walked off. Minutes later he returned to the office and started unrolling long strips of packing

tape and taped the letter to the front window of the office with excessive amounts of tape. M.V. also provided a video of the Tenant taken at this time showing his aggressive and hostile demeanour.

A few minutes later, M.V. noted that the Tenant took a chair from the laundry room and placed the chair in front of M.V.'s office window, and started staring at her. M.V. stated she closed the blinds to avoid unnecessary contact. M.V. noted that the police were again updated on what was happening. Police attended and spoke with the Tenant. M.V. stated that following these aggressive and hostile interactions with the Tenant, she had to sneak away from work at the end of her shift, as she was afraid for her safety.

M.A. also provided a copy of a warning letter they gave to the Tenant, dated April 28, 2022, where they explain that his above noted behaviour on April 13, 2022, was unacceptable, and that this was his second formal warning for similar matters.

M.A. stated that there was another incident on June 7, 2022, where M.V. was working and she noted the following:

At around 8:15 am, the Tenant appeared at the office door, eyes bloodshot, shirt unbuttoned, and bare feet. The Tenant was complaining that someone had stolen his "joints" that were left on his patio, and that the Landlord was not doing enough to protect him.

The Tenant called the office numerous times shortly after his earlier appearance. Then, around 8:37 am, the Tenant came into the office with no shirt or shoes on. The Tenant was again stating that people were invading his yard and stealing things from him. M.A. was on-site and advised the Tenant to call police if he feels things are being stolen from him. M.A. escorted the Tenant out of the office and asked him to wear shirt and shoes when he comes in.

Minutes later, the Tenant came back, with an unbuttoned shirt and bare feet and "barged" into M.A.'s office and stood right in her face saying "I love you". M.A. asked the Tenant to step back. However, he did not, so M.A. stepped back and asked the Tenant to leave.

M.A. also stated that the Tenant was admitted to hospital for mental health reasons on June 7, 2022 (attempted suicide). He was not released until June 13, 2022. M.A.

explained that on June 13, 2022, the Tenant came back to the complex after being released and she noted the following interactions on that day:

The Tenant came to get his keys back, and some money he left in the office, and after being escorted to his rental unit, he pushed a piece of paper into M.A.'s face and asked her to read it. M.A. noted that it was a suicide note blaming her for the attempt he made on his life a few days prior.

M.A. also presented an incident on June 15, 2022, where M.V. documented a series of 3 phone calls from the Tenant where he told M.V. that he knows M.A. loves him and he loves her too, and that he has a ring and wants to marry her. M.V. noted that the Tenant gave M.A. half an hour to respond. The Landlord also pointed out that the Tenant has also started emailing different Kiwanis contacts, MLA's and advocacy groups, in different geographical areas, to take issue with many issues he has with the Landlords, including that he feels the inspections of his unit are an unwarranted attempt to get him evicted, following the death of his wife.

The Landlord also spoke to several ongoing issues with the Tenant, and pointed to several complaints from neighbors regarding periodic hostile and inappropriate behaviour, even after the Notice was issued, despite the fact that the Tenant asserts he is obtaining psychological and medical assistance in recent months.

M.A. explained that although the Tenant has a history of mental health issues, his behaviours are escalating, and have become increasingly difficult to manage. M.A. also pointed out that the Tenant has since refused access to the suite for inspections, unless the Landlord has at least 2 police officers present, or 2 government employees.

The Tenant stated that he just wants to be left alone, although he acknowledged he has had an especially difficult time, psychologically, since his wife died in the spring of 2022. The Tenant does not feel he has disturbed the Landlords to the extent they are asserting, and he does not feel it is possible for him to have created the disturbance they assert on June 7, 2022, since he was taken away to hospital around noon, due to a mental health crisis.

The Tenant pointed out that M.A. continued with suite inspections, and warning letters, despite knowing that his wife was dying and that he was struggling.

The Tenant stated that on some of the occasions, he called the police himself, because he was suicidal or because he needed other assistance, and he denies that the police

were only present because of his aggression with the Landlord. The Tenant does not feel it is fair that he be punished for seeking help.

The Tenant also pointed out that many of the statements from other Tenants are dated after the Notice was issued, and should be assigned little weight or be dismissed. The Tenant acknowledges that there “might have been conflict” but it is no basis for eviction and the issues that occurred ought to be understandable given what the Tenant was going through.

The Tenant pointed to his third evidence package which contained a police report showing that he attempted to commit suicide on June 7, 2022. The Tenant asserts that the tenancy should continue and rather than issue an order of possession, I should issue the necessary orders to hold the parties accountable, and give the Tenant another chance to improve his conduct. The Tenant suggested an order to minimize contact between he and the Landlords.

The Tenant submitted copies of letters from the Landlord regarding past suite inspections, warning letters, and also a handwritten letter from the Tenant at the time he was in the hospital following his suicide attempt on June 7, 2022. The letter spells out that the Tenant feels the Landlord is substantially responsible for his feelings of discrimination and harassment, and his attempt to bring himself peace through suicide.

The Tenant also provided copies of his medical records detailing his medical and psychological issues, and the help he is receiving.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, nor will I attempt to summarize and speak to all evidence and testimony that was provided. Instead, I 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.

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

The Landlord entered into written evidence a copy of the Notice. The first issue the Landlord identified on this Notice was:

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

I have considered the totality of evidence and testimony presented by the parties. I acknowledge that the last year has been extremely challenging and distressing for the Tenant, given the passing of his wife. It appears the Tenant's wife was ill for some time, but that her health significantly declined in the last year. I further note the Tenant's wife went into hospital care last fall, 2021 and the Landlord stated that a large part of the reason why the Tenant's wife could not be released to come back to the rental unit, was due to cleanliness and sanitary standards not being met within the rental unit itself.

The Tenant did not refute that there were some cleanliness issues, although it appears he struggled to sufficiently address those matters in a manner which was acceptable for the Landlord or for the authority overseeing the release of his wife. It appears the Tenant, at one point, tried to pay the Landlord to clean up his rental unit for him in the spring of 2022, after many months of inspections and follow ups with limited success. In any event, I accept that there were ongoing cleanliness issues with the rental unit which warranted that the Landlord follow up and check in with the Tenant. I do not find there is sufficient evidence to show that this was done in an unreasonable or high-handed manner, and it appears to have become more of an issue in and around the time the Tenant's wife was potentially being released to go back home (to the rental unit).

That being said, I accept that ongoing and repeated inspections over the course of many months, alongside dealing with an ailing spouse would have likely had deleterious effects on the Tenant's emotional and psychological wellbeing. The Tenant does not dispute that he was having a mental health crisis, to the extent that he attempted suicide in early June 2022. However, the Tenant feels he should not be punished for having reached out to the police for help and for having a mental health crisis earlier in the year. The Landlord stated that they have tried to be as compassionate as possible, but the Tenant's behaviour has crossed a line and has escalated such that it is impeding their lawful rights and interests as a Landlord. The Landlord stated that they have continued to receive complaints about the Tenant's behaviour even after the Notice was issued.

I acknowledge that some complaints were received by the Landlord after the Notice was issued. However, my focus at this time is whether or not the Landlord had sufficient grounds to issue the Notice at the time it was given to the Tenant, on or around June 23, 2022.

I note the Landlord, M.A., provided thorough documentation regarding the history of issues with the Tenant. These documents are well organized, detailed, and compelling, particularly the detailed notes taken by the Landlord's agents, M.A. and M.V., after there was an incident. Although I acknowledged there may have been some issues and incidents previously, I turn to the incidents starting in and around April 13, 2022.

I find there is little to no evidence the Landlords were harassing the Tenant in the manner he asserts. Overall, I find the Tenant's actions towards M.A. and M.V. significantly interfered with and unreasonably disturbed their lawful duties as a Landlord.

Notably, the Tenant appeared to repeatedly call and attend the office on April 13, 2022, and act aggressively and/or inappropriately. Although the Tenant may have been displeased with the ongoing suite inspections, I do not find it is reasonable to threaten to "destroy" the Landlord or to attend the office repeatedly in a hostile and aggressive manner. The Tenant does not refute that he threatened to destroy the Landlord. I note both of the Landlord's agents, were impacted by the aggressive nature of the Tenant, particularly following the April 13, 2022, incident, such that they wanted to involve police, lock the office door, and close the blinds of the office to mitigate interactions with the Tenant, who appeared to be hostile. I am satisfied that this type of behaviour from the Tenant would have significantly interfered with or unreasonably disturbed the Landlord.

In summary, I find it more likely than not that the Tenant significantly interfered with or unreasonably disturbed the Landlord, on April 13, 2022, and in the weeks leading up to the issuance of the Notice. As such, I find the Landlord has sufficient cause to issue the Notice. The Tenant's application to cancel the Notice is dismissed. The tenancy is ending, under the Notice, as described below.

Given my findings on this matter, it is not necessary to consider the other grounds listed on the Notice.

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. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notice complies with the requirements of form and content. I find the Landlord is entitled to an order of possession effective **November 30, 2022, at 1pm** after service on the Tenant.

Conclusion

The Tenant's application to cancel the Notice is dismissed.

The Landlord is granted an order of possession effective **November 30, 2022**, at 1:00 p.m. 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: November 16, 2022

Residential Tenancy Branch