



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application for dispute resolution under the *Residential Tenancy Act* (the Act).

On July 5, 2022, the tenant filed to dispute a One Month Notice to End Tenancy for Cause, dated June 30, 2022 (the One Month Notice).

Procedural History

This hearing was reconvened after being adjourned on November 22, 2022. This decision should be read in conjunction with the Interim Decision issued on November 22, 2022.

The Interim Decision and notices of reconvened hearing were sent to each of the parties via the contact information they provided to the Residential Tenancy Branch (RTB).

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord confirmed receipt of the tenant's Notice of Dispute Resolution Proceeding (NDRP), but not the tenant's evidence. The tenant's advocate testified his evidence was not served on the landlord because he did not have a correct address for service for the landlord. The landlord submitted his address for service was valid, and that he had received the tenant's NDRP via the same address. As the tenant did not serve a copy of

his evidence on the landlord, as required by Rule 3.14, I will not consider it in my decision.

As the tenant confirmed receipt of the landlord's responsive evidence, I will consider it in my decision.

Preliminary Matter

During the reconvened hearing on December 9, 2022, I denied the landlord's request to present a fourth witness, pursuant to my authority under rules 7.17 and 7.20 and my authority to determine when I have heard enough testimony relevant to the dispute to apply the law and make a decision.

Issues to be Decided

- 1) Is the tenant entitled to an order cancelling the One Month Notice?
- 2) If not, is the landlord entitled to an order of possession?

Background and Evidence

While I have considered the documentary evidence served in accordance with the Rules and the Act, and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The parties agreed on the following particulars regarding the tenancy. It began six years ago, with the current landlord taking over on February 18, 2022. The parties agreed that rent was due on the first of the month, and that the tenant had paid a security deposit.

The tenant testified that rent was \$482.13 a month and that he had paid a security deposit of \$237.50; the landlord submitted that he did not know how much the tenant's rent was, and did not know the amount of the security deposit the tenant paid. The landlord testified that he "presumably" still held the security deposit.

The parties agreed the One Month Notice was served on the tenant in person on June 30, 2022.

A copy of the One Month Notice was submitted as evidence. It is signed and dated by the landlord, gives the address of the rental unit, states an effective date, indicates the grounds for ending the tenancy, and is in the approved form, RTB-33.

The One Month Notice indicates the reasons for the Notice are:

- the tenant has allowed an unreasonable number of occupants in the unit;
- the tenant is repeatedly late paying rent;
- the tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk; and
- the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property;
- the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord;
- the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord;
- the tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit or property; and
- the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of the Events section contains further information regarding the reasons for the Notice.

The landlord testified that the tenant was late with rent in March and September 2022, and one other unspecified time, when it was "only two days late."

The landlord testified that the tenant frequently behaves in a violent and aggressive manner toward the landlord and others, including contractors, employees, and other tenants. The landlord did not provide dates, but stated that the tenant always behaved in this manner with the landlord, and that it had occurred about 8 to 10 times since the landlord took over the tenancy agreement in February 2022. The landlord testified that the tenant screams, gets into the landlord's personal space, swings his arms, and is animated and "very scary."

The tenant testified that he does not know how he is getting into the landlord's personal space, stating that he has been 15 steps away from the landlord when asking him when

he will make repairs. The tenant testified that he agrees he gets agitated and verbally aggressive, stating that he has a loud voice when the landlord is ignoring him. The tenant testified that he has never threatened anyone.

An employee of the landlord testified that over the 4 to 5 years he has known the tenant, the tenant had been aggressive, violent, and belligerent with him about 4 or 5 times. The employee described an encounter about 2 to 3 months ago, which he submitted "was over the top." The employee testified that he was working alone in the laundry room at around 10:00 a.m., when the tenant entered, and was "screaming" at the employee because he had been awakened by the employee's work; the employee described the tenant's behaviour as very aggressive, loud, and angry.

The tenant testified that he was angry after being awakened by banging, and that he asked the employee what was going on.

The tenant's advocate submitted that the tenant was angry because the landlord has not acted on a repair order issued in a previous decision, as noted on the cover page of this decision, and because there are rats in his rental unit.

The landlord called CM, another occupant of the rental property, as a witness. CM testified that on June 30, 2022 the tenant had pushed a door into her and yelled to other occupants of the property that she was a "rat." CM testified that the tenant is "always ranting and raving" around the building, and that "he gets in your face," blocks her way, and throws his arms around.

The tenant testified that he and CM do not get along. The tenant testified that on June 30, when CM alleges he pushed the door into her, he had stepped onto a 4-foot square landing to investigate a commotion below. The tenant testified that he was surprised by the door suddenly swinging outward, and that the door hit him, causing him to almost lose his balance. The tenant submitted that after that the door probably swung back into CW.

Submitted as evidence is audio from June 12, 2022, in which the tenant can be heard shouting and swearing at the landlord: "Are you going to get my rats out of my fucking apartment that are climbing in that wall everyday?" The landlord says he has not previously heard about rats; the tenant shouts that is because the landlord has not returned to fix anything after tearing the wall apart in February. The tenant says that the wall panel and insulation is gone, and that there has been only vinyl siding since

February. The tenant told the landlord that as a result it was very cold in the unit from February to April.

The landlord testified that he cannot address potential building problems identified by the tenant, such as mould, damages, and structural issues, because the tenant does not permit the landlord to enter the rental unit. The landlord submitted that this puts the property at significant risk.

The tenant testified that he has been trying to get the landlord to return to fix his wall for 10 months. The tenant testified that the only time he has refused the landlord access was when CM was present.

Submitted as evidence is video in which the landlord, accompanied by CM as a witness, is attempting to enter the tenant's unit to conduct an inspection. The tenant tells the landlord he is welcome in his home, and is welcome to have another person present as a witness, but that CM is not welcome in his home as they do not get along.

The tenant's advocate submitted that at 7:45 p.m. on a warm evening, when the tenant's door was open, the landlord entered the tenant's unit without notice, while filming the tenant, stating that he was there to address the issues with the unit. The advocate submitted that the tenant was intimidated and told the landlord he needed to provide 24 hours notice. The advocate submitted there were other instances in which the landlord did not provide adequate notice of entry to the rental unit.

Analysis

Based on the parties' testimony, I find the landlord served the tenant the One Month Notice on June 30, 2022, in accordance with section 88 of the Act, and that the tenant received it on the same day.

I find the One Month Notice meets the form and content requirements of section 52 of the Act.

The landlord has provided testimony, witness testimony, and documentary evidence demonstrating the tenant's behaviour. The landlord has testified that the tenant frequently behaves in a violent and aggressive manner, including toward the landlord 8 to 10 times since the landlord took over the tenancy agreement in February 2022. The landlord testified that the tenant screams, gets into the landlord's personal space,

swings his arms, and is animated and “very scary.” Submitted as evidence is audio of the tenant shouting and swearing at the landlord.

I note that section 47(1)(d)(i) specifies significant interference or unreasonably disturbance of *another occupant or the landlord* of the residential property. Therefore, the employee’s testimony alone regarding the tenant shouting at him would not support this reason for ending the tenancy. However, the employee’s testimony corroborates the landlord’s submissions on the behaviour of tenant.

I give less weight to CM’s testimony that the tenant pushed a door into her, is “always ranting and raving,” and blocks her way, as the tenant testified that he and CM do not get along.

The tenant himself has testified that he can be loud and behave in an aggressive manner. The tenant submitted that he has never threatened anyone, but that does not make his shouting and intimidating behaviour permissible.

I acknowledge the tenant’s testimony that the landlord has not acted on repairs ordered by the arbitrator in a previous decision.

However, I find, on a balance of probabilities, that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. Therefore, I find the landlord may end the tenancy under section 47(d)(i) of the Act, which states:

Landlord's notice: 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.

I find the landlord is entitled to an order of possession.

Conclusion

The tenant's application is dismissed; the One Month Notice is upheld.

The landlord is granted an order of possession which will be effective at 1:00 p.m. on December 31, 2022.

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: December 19, 2022

Residential Tenancy Branch