



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution made on October 9, 2022. The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause dated September 30, 2022 (the One Month Notice) and to recovery the filing fee, pursuant to the Residential Tenancy Act (the Act).

The Tenant attended the hearing. The Landlord attended the hearing and was accompanied by MM and PH, witnesses. All in attendance provided affirmed testimony.

The Tenant testified that the Notice of Dispute Resolution Proceeding package was served on the Landlord by attaching a copy to the office door. The Landlord acknowledged receipt. In addition, the Landlord testified the documentary evidence relied upon was served on the Tenant in person. The Tenant acknowledged receipt.

No issues were raised with respect to service or receipt of these packages during the hearing. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The Landlord testified the Tenant moved into the rental unit on November 1, 2021. Although asked, the Tenant was unable to state the date she moved into the rental unit. The parties agreed that rent of \$900.00 per month is due on the first day of each month, and that the Tenant paid a security deposit of \$475.00.

The Landlord confirmed the One Month Notice was served on the Tenant by attaching a copy to the Tenant's door and by email on September 30, 2022. The Tenant acknowledged receipt on that date. The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states an effective date, states the grounds for ending the tenancy, and is in the approved form.

The One Month Notice was issued on the basis that the Tenant or a person permitted on the property by the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord;
- engaged in illegal activity that has or is likely to adversely jeopardize a lawful right or interest of another occupant or the Landlord.

The Landlord testified that the concerns are related to guests of the Tenant, in particular an individual referred to during the hearing as R. The Landlord testified there have been a number of noise complaints related to the Tenant and her guests.

The Landlord testified that the Tenant has been advised of concerns on numerous occasions. The Landlord referred to an email to the Tenant dated September 15, 2022, in which she expressed concern about the ongoing issues with R attending the rental property. Further, in a letter to the Tenant dated September 28, 2022, the Landlord described "several verbal warnings and recently (Sept. 9, 2022) a further written warning regarding our concerns."

The Landlord testified that the issues are ongoing despite the above warnings. An email from ID dated September 20, 2022 refers to “a bug guy outside right by the lobby door...I did feel somewhat uneasy.” In addition, an email from WK dated September 29, 2022 describes a “sketchy guy standing in the parking lot.” Further, in an email dated October 31, 2022, MR describes an individual whistling to be let into the building and that this occurs “each night, and at all hours.” The Landlord testified that video footage confirms the individual referred to in these emails was R.

The Landlord testified further that she received a complaint regarding an incident on November 16, 2022. In an email dated November 16, 2022, MR advised that in the early morning hours he heard “a rather significant domestic argument” in the Tenant’s rental unit that lasted about two hours. The Landlord issued a warning letter to the Tenant dated November 17, 2022, in which she described the complaint and advised that failing to adhere to the terms of the tenancy agreement may result in the end of the tenancy.

The Landlord also described a recent incident on December 22, 2022, which was brought to her attention by other tenants in the rental property. According to the Landlord, yelling and slamming doors could be heard in the Tenant’s rental unit. Police attended to conduct a wellness check and took R outside for a conversation. The Landlord is unsure of the outcome. The Landlord testified that documentary evidence in support was not provided due to the recency of the incident.

The Landlord also referred to smoking by the Tenant and illegal drug use by the associates of the Tenant.

In reply, the Tenant testified that R was her partner for a while and offered support. The Tenant testified that she has done her part by telling R he is not welcome at the property, but he attends anyway. The Tenant testified that she does not have any control over that and does not feel she should be held responsible.

The Landlord denied the Tenant is not in control of R’s access to the rental property as he has been observed letting himself into the Tenant’s rental unit and other areas of the rental property with a key, suggesting he is a guest of the Tenant.

Analysis

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

Section 47(1) of the Act permits a landlord to take steps to end a tenancy for the reasons stated in the One Month Notice.

In this case, I find there is sufficient evidence before me to conclude that the Tenant's guests have significantly interfered with or unreasonably disturbed other occupants or the Landlord. In particular, I accept the written complaints of ID, WK, and MR, and that the individual described in their complaints is R, a friend and guest of the Tenant. I accept that these incidents disturbed these tenants and note that ID felt "uneasy" due to the presence of R.

I also accept the evidence of the Landlord relating to noise complaints that sounded like domestic arguments on November 16 and December 22, 2022, and that these disturbed other occupants of the rental property.

Considering the above, I find the Landlord has provided sufficient evidence in support of the One Month Notice. Therefore, I find that the Tenant's requests to cancel the One Month Notice and to recover the filing fee are dismissed without leave to reapply.

When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the Act, section 55(1) of the Act requires that I grant an order of possession to the landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the Act. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Tenant's application is dismissed without leave to reapply.

Pursuant to section 55(1) of the Act, I grant the Landlord an order of possession, effective two days after it is served on the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 31, 2022

Residential Tenancy Branch