



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The Tenant seeks an order pursuant to s. 47 of the *Residential Tenancy Act* (the “Act”) cancelling a One-Month Notice to End Tenancy signed on July 22, 2022 (the “One-Month Notice”).

C.M. appeared as the Tenant. C.S. appeared as agent for the Landlord. S.R. attended as property manager for the Landlord. G.K. and V.K. attended as resident building managers for the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Issues to be Decided

- 1) Should the One-Month Notice be cancelled?
- 2) If not, is the Landlord entitled to an order of possession?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenant moved into the rental unit on August 9, 2014.
- Rent of \$1,736.00 is due on the first day of each month.
- A security deposit of \$682.50 was paid by the Tenant.

The Landlord provided a copy of the tenancy agreement in its evidence. The Landlord's agent advises that the subject rental unit is a multiunit apartment building.

I am advised by the Landlord's agent that the One-Month Notice was sent to the Tenant via registered mail sent on July 22, 2022. The Tenant acknowledges its receipt, though cannot recall when.

Both parties provide a copy of the One-Month Notice, which lists August 31, 2022 as its effective date. The notice states it was issued due to the Tenant or someone permitted on the property by the Tenant significantly interfering with or unreasonably disturbing another occupant or the landlord. The Landlord describes the reason for ending the tenancy within the One-Month Notice itself as follows:

The Tenant has been intercepting other residents in the common hallways of the building on an ongoing basis deceminating false and derogatory information regarding the building staff and operation of the building. As a result of these interceptions a number of the building residents have complained of harrassment by said Tenant and advised the building management. In addition Senior building management has recently warned the Tenant verbally (July 14/22) followed by a letter delivered on July 18th that the use of derogatory language (June 30/22) and intimidating actions directed at buidling staff could result in being asked to leave. As a result of this ongoing behaviour, noted July 15th and later [the Landlord] wants to terminate the Tenancy in accordance with the Residential Tenancy Act. The actions of this Tenant are making the working environment of our building staff untenable and they are feeling unsafe.

I have redacted identifying information from the passage above in the interests of the parties' privacy.

According to the Landlord's agent, the Tenant and the Landlord's building managers, G.K. and V.K., have had a dispute regarding the allocation of a storage space within the building's bicycle lockup, which began in April 2022. I am directed to a memo written by the building managers sent to S.R. detailing that this dispute began when the Tenant requested access to the bicycle lockup. According to the memo, the Tenant demanded use of space allocated to another tenant, which the managers refused. It goes on to state that the Tenant requested the contact information for the tenant who was allocated the space, which the managers denied. Finally, it details that the Tenant began to yell and scream at the manager, who then asked for the Tenant to leave as she was going through a difficult time following the passing of her mother.

In the Tenant's narrative, she says that the manager in question, G.K., has anger issues and that the manager began to yell at her on that occasion without cause or provocation. According to the Tenant, she asked G.K. why she was upset and was advised about the passing of her mother. The Tenant says she gave flowers to G.K. after the interaction.

The Landlord's agent further submitted that the building managers reported to S.R. for him to intervene and speak with the Tenant. I am told that this conversation took place on June 20, 2022, though specifics of the conversation were not relayed to me by the agent or S.R.. According to the Tenant, she says that she spoke with S.R. about a number of matters, including issues relating to fire responses and directing the other tenants to donate some of their unused bicycles to a charity in the community.

I am advised by the Landlord's agent that the Tenant accosted G.K. in the laundry room. According to G.K., the Tenant entered the room to speak with her and called her a "typical Russian pig". The Landlord's evidence includes of video of this incident, though it does not include audio. Following this incident, the agent advises that S.R. spoke to the Tenant once more on July 15, 2022 warning that further conduct would result in eviction. According to the agent, the Tenant was unapologetic during the conversation of July 15, 2022 and did not deny the allegation to S.R.. The Landlord followed up with the Tenant afterwards by sending her a letter dated July 18, 2022, which the Landlord puts into evidence.

The Tenant denies calling the building manager a “Russian pig”. According to the Tenant, G.K. told her to stop following the assistant building manager about the property, to which the Tenant says she told G.K. that “You’re being ridiculous”. The Tenant denies being racist.

The Tenant further reiterated that G.K. has “explosive anger” and that other tenants in the building did not wish to provide statements to this effect for fear of reprisal. The Tenant also stated that she spoke with an individual who is not a tenant at the building that reported being berated by G.K.. The Tenant speculated that G.K.’s conduct may be due to her culture and being Russian. The Tenant emphasized she was not raised to berate the elderly. The Tenant further speculated that the building manager’s anger may be the result of her putting up colours in support of Ukraine on her vehicle, which she says is parked adjacent to the building manager’s vehicle.

The Landlord’s agent advises that the Tenant, after speaking with S.R., went about the property speaking with the other occupants. The agent says he reviewed the surveillance footage of this himself and says that he observed the footage to show the Tenant trying to speak with the other occupants with papers in hand. The agent says he understood the papers to be some form of petition related to the building managers, though he could not say for certain as he did not review it. I am provided with a copy of a memo dated July 21, 2022 from the building managers to S.R. which details the Tenant speaking with other tenants and alleges this was in relation to spreading negative information about the managers, S.R., and the Landlord. The Tenant denies speaking with others attempting to get their signatures for a petition against the building managers.

The Landlord’s evidence also includes three letters dated August 30, 2022, September 15, 2022, and September 23, 2022, which the agent advises are from other occupants at the building. The identifying information in these letters has been redacted by the Landlord. The letters variously allege the Tenant initiating undesired conversations with the other occupants.

According to the letter dated September 15, the individual describes how they have witnessed the Tenant corner other residents in the building to speak with them, talking “incessantly in a very loud voice and [that she] is very difficult to get away from.” The author of the letter dated August 30 describes having been cornered by the Tenant in unwanted conversations.

The author of the letter dated September 23 states that they spoke with the Tenant in July 2022 in the bicycle room after they witnessed the Tenant locking her bike in a space behind the door that is not designated for bikes. The Tenant is reported to have told the individual that she was “unhappy with the space assigned to her by the building managers and had made the decision to store it [in (sic)] the unauthorized area instead”. The individual further reports the Tenant bothering them and their wife about her escalating conflict with the building’s managers. The author of the letter further reports that they attended a bike club meeting on July 20, 2022 in which the Tenant had also happened to attend. At that meeting, the individual says that the Tenant “spoke to the attendees about her difficulties at the [residential property] and framed these as a Russian versus Ukraine conflict”.

The Landlord’s agent emphasized that issuing the One-Month Notice was a last resort following the Landlord’s repeated attempts to have the Tenant correct her actions. In the agent’s submissions, the building managers, both as employees and residents of the building, should be free from harassment and should not be treated in the manner they have been by the Tenant. The agent argued that should the notice be cancelled, the Tenant may be emboldened and persist in her activities.

I asked the agent whether the Tenant’s conduct has persisted since the One-Month Notice was issued. The agent says that things have improved, though reemphasized that serving the notice was not the Landlord’s first step. It was argued that should the Tenant’s behaviour deteriorate once more and a new notice to end tenancy issued, there would be a further delay of upwards of 6 months to have the matter heard by the Residential Tenancy Branch.

The parties confirmed that the Tenant continues to reside within the rental unit.

Analysis

The Tenant seeks an order cancelling the One-Month Notice.

Under s. 47 of the *Act*, a landlord may end a tenancy for cause by given a tenant at least one-month’s notice to the tenant. Under the present circumstances, the Landlord issued the notice to end tenancy pursuant to s 47(1)(d)(i). Upon receipt of a notice to end tenancy issued under s. 47(4), a tenant has 10 days to dispute the notice. If a tenant files to dispute the notice, the onus of showing the notice is enforceable rests with the landlord.

Review of the information on file shows that the Tenant initially filed her application and applied for her fee waiver on July 26, 2022, though there was issue with the application that needed correction such that it was not finalized until August 19, 2022. Upon consideration of Rule 2.6 of the Rules of Procedure, I find that the Tenant filed her application on July 26, 2026.

The Landlord advises that the One-Month Notice was served via registered mail on July 22, 2022, which the Tenant acknowledges receiving. I find that the One-Month Notice was served in accordance with s. 88 of the *Act*. Given when the application was filed, I find that the Tenant did so in compliance with the 10 day time limit imposed by s. 47(4) of the *Act*.

As per s. 47(3) of the *Act*, all notices issued under s. 47 must comply with the form and content requirements set by s. 52 of the *Act*. I have reviewed the One-Month Notice and find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

The primary allegation is whether the Tenant's conduct constitutes an unreasonable disturbance or significant interference of the building's managers, who are both employees and agents of the Landlord and residents of the building. The most significant allegation raised by the Landlord is said to have occurred on June 30, 2022 in the laundry room where the Tenant is said to have called G.K. a "Russian pig".

There is no dispute that a conversation took place within the laundry room on that date, though the Tenant denies it occurs as alleged. G.K., in her evidence, confirmed that it did. I am provided with video of the incident, which is less than helpful as there is no audio to confirm the conversation that is said to have taken place.

With respect to the incident of June 30th, I find that the Landlord's narrative is more credible. I found the Tenant to be less than credible in her evidence in this regard, specifically as it relates to her denial of racism. During the hearing itself, the Tenant made a series of puzzling remarks with respect to G.K.'s conduct being attributable to her Russian heritage and that the Tenant was not raised in the manner G.K. had been. The Tenant further speculated that G.K. had it out for the Tenant because she supports Ukraine in its fight against Russian aggression. This narrative, put forward by the

Tenant herself, is further reinforced by the statement from the author of the letter of September 23, who details a meeting in which the Tenant described her dispute with the building's management as one between Ukraine and Russia.

All this is to say that I find it more likely than not that the Tenant did call G.K. a "Russian pig" in the laundry room on June 30th. I can only describe the Tenant's remarks at the hearing as prejudicial to G.K. due to her Russian heritage, which lends an air of credibility to the Landlord's allegations. It goes without saying that racist and prejudicial comments from a tenant to the building's management and/or other occupants at the building constitutes an unreasonable disturbance. On this basis alone, I find that the Landlord has demonstrated that the Tenant has unreasonably disturbed the resident building manager and that the One-Month Notice was properly issued.

I make no comment with respect to the allegation regarding the petition, though I would note that I do find it likely that the Tenant does corner the building's other residents in unwanted conversations as evidenced in the letters provided to me by the Landlord. Whether on the occasion alleged by the Landlord the Tenant was going about with a petition is not relevant as I find that her conduct on June 30, 2022 is sufficiently serious to warrant ending the tenancy on its own.

I am cognizant that post-notice conduct may be relevant as per *Senft v Society for Christian Care of the Elderly*, 2022 BCSC 744, particularly as it relates to the interpretation of s. 47 within the context of the protective purpose of the *Act*. I find that case distinguishable, however, as it related to issues of uncleanliness within a rental unit of a tenant with poor health whose cleaner stopped providing services during the pandemic.

In this case, the Tenant deliberately directed a racial slur to G.K.. Such conduct is entirely beyond the scope of what may be considered acceptable interactions between a tenant and a landlord's employees, who is also a fellow resident. It is not relevant, in my view, that the Tenant has been on good behaviour since the notice was issued. To excuse the Tenant's conduct would be akin to saying a tenant who struck a building managing should not be evicted because they have not done so since receiving the notice. Some conduct is so serious that post-notice conduct provides no excuse.

I find that the Landlord has demonstrated that the One-Month Notice was properly issued. The Tenant's application to cancel the notice is dismissed.

Section 55(1) of the *Act* provides that where a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with s. 52, then I must grant the landlord an order for possession. As that is the case here, I grant the Landlord an order of possession.

Conclusion

The Tenant's application to cancel the One-Month Notice is hereby dismissed.

Pursuant to s. 55(1) of the *Act*, I grant the Landlord an order of possession. The Tenant shall provide vacant possession of the rental unit to the Landlord within **two (2) days** of receiving the order of possession.

It is the Landlord's obligation to serve the order of possession on the Tenant. If the Tenant does not comply with the order of possession, it may be filed by the Landlord with 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: January 09, 2023

Residential Tenancy Branch