



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding Maple Ridge Pitt Meadows Community
Services and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNQ, CNC

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 2 month notice to end tenancy issued because the tenant does not qualify for subsidized rental unit, pursuant to section 49.1; and
- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The tenant did not attend this hearing. The tenant’s advocate attended the hearing and at the commencement of the hearing, the advocate advised me that the tenant had called her instead. After asking to disconnect so she could speak to the tenant, the tenant’s advocate called back in and advised the tenant would not be attending. When I asked why, the advocate advised the tenant did not have the number to call in or the access code. The advocate offered to text the telephone number and access code to the tenant, and I requested she do so. The tenant did not call into the hearing which commenced at 9:30 a.m. and ended at approximately 10:35 a.m.

The landlord attended the hearing and acknowledged being served with both the tenant’s applications seeking to dispute the two notices to end tenancy. The tenant’s advocate also acknowledged being served with the landlord’s evidence package for both notices. Neither party took issue with timely service of documents.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure (“Rules”) and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an oath to tell the truth and they both confirmed that they were not recording the hearing.

Issue(s) to be Decided

Should the landlord's notices to end tenancy be upheld or cancelled?

Background and Evidence

At the commencement of the hearing, I advised the parties that in my decision, I would refer to specific documents presented to me during testimony pursuant to rule 7.4. In accordance with rules 3.6, I exercised my authority to determine the relevance, necessity and appropriateness of each party's evidence.

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

The landlord gave the following testimony. The unit is one of 94 affordable units to low and moderate-income families and individuals including 12 seniors and 20 youth units with support for youths transitioning to independence. The tenancy was set to commence September 1, 2022 however the tenant did not take possession of the unit until September 24 or 25th. Before she moved in, the tenant was given a program expectation letter on September 22nd. It states:

After today's conversation the expectations as agreed upon by you today, is moving forward:

- You will check in with the Tenant Liaison Workers every 48-hours (2 days) to ensure tenancy, health and safety standards are being met
- You will work with the housing team and your supports to co-create a plan to support your success in this program.
- Move towards occupying the suite on a more regular basis to meet the requirement of tenancy in the program.

The landlord testified that it was explained to the tenant that if they are discharged from the Youth Housing Program, they no longer qualify to reside in the unit assigned only to the Youth Housing Program. The tenancy will end if the tenant is discharged from the program.

Within 2 days of moving in, on September 27th, the tenant provided access to the building to underage children who were under the influence of drugs. Fighting ensued and some of her guests were observed passed out in the hallway. The landlord testified that the children in the tenant's room had been reported missing by the police. The landlord testified that since moving in, the tenant's unit has been used as a "drug den"

as a safe place for the tenant and her guests to use drugs. In evidence, the landlord provided a letter dated October 6th from a youth and family conflict coordinator indicating that the tenant had been reported dealing Xanax. It also states that the tenant's guest had a gun, stole the tenant's "stash" and refused to leave. The tenant was alleged to have many of her own weapons and a variety of knives.

On September 28th, the tenant was captured on video surveillance cameras removing items from the common room and taking them to her unit. The stolen items include a fan, a garbage can, a standing lamp and a video gaming system. Photos of the tenant taking the items was provided as evidence. On or about the 28th of September, the tenant's support worker also reported to Property Manager that the unit was trashed overnight.

The landlord testified that the tenant has allowed the 2 underage children move into her single occupancy bachelor unit and on October 3rd the landlord observed a man moving in as well. This man was identified by the landlord as the tenant's boyfriend.

The landlord served a 1 Month Notice to End Tenancy for Cause on October 26th by posting a copy to the tenant's door. The reasons for ending the tenancy were:

1. the tenant has allowed an unreasonable number of occupants in the unit/site;
2. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
3. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
4. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
5. 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;
6. 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 or the landlord;

The landlord testified that the tenant failed to meet the expectations as set out in the September 22nd expectation letter. She consistently missed scheduled appointments with the youth workers and refused to work with the supports offered to her. On October 11, the landlord served a letter terminating the tenant's participation in the Youth Housing Program. On November 25th, the landlord served the tenant with a 2 Month Notice to End Tenancy because the Tenant does Not Qualify for Subsidized Rental Unit. The landlord testified that she personally served this notice upon the tenant. As explained to the tenant, participating in the youth housing program allows

her to continue to qualify for the subsidized housing. Once terminated, the tenant no longer qualifies for the unit.

The tenant's advocate submits that she has represented many people in the same situation as this tenant. She filed these applications in hopes of finding a way to settle this dispute to find a way for the tenant to maintain living in the unit or find alternate housing. She questions whether the landlord made any attempts to find such alternate housing.

The advocate stated she does not dispute the landlord's evidence or testimony. She does want to give the tenant and her support workers time to find alternate housing for the tenant. She argues that if the housing is supplied for at-risk youth, the youths run the risk of being further traumatized if they lose the housing for misbehaving. It's a failure of the system.

Analysis

I find the tenant was served with the 1 Month Notice to End Tenancy for Cause on October 26, 2022 and filed an application to dispute it within 10 days, on November 5, 2022 in accordance with section 47 of the Act. Likewise, the tenant was served with the 2 month notice because the tenant does not qualify for subsidized housing on November 25th and filed the application to dispute it on December 5th, within 15 days as required under section 49.1 of the Act.

When a tenant files the application to dispute the landlord's notices, the onus is on the landlord to prove the reasons for ending the tenancy are valid. I turn first to the 1 Month Notice to End Tenancy for Cause.

The evidence and testimony of the landlord was all undisputed. The tenant did not attend this hearing to provide contradictory testimony and the tenant's advocate did not dispute any of the evidence. Based on the undisputed testimony, I find that the tenant had moved 2 underage children and her boyfriend into her bachelor unit. I find that 4 occupants in the bachelor unit is an unreasonable number of occupants and I uphold the first reason for ending the tenancy for cause.

I have also reviewed the evidence of the tenant stealing items from the common room on September 28th. I accept that theft is an illegal activity and that the theft of the fan, the garbage can, the standing lamp and the video gaming system adversely affects the quiet enjoyment, security, safety or physical well-being of other occupants of the building. The testimony that the tenant "trashed" her unit on September 28th was

likewise not disputed. I find the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk. I find the landlord has successfully proven the reasons to end the tenancy for cause. The landlord is entitled to an Order of Possession. As the effective date on the landlord's notice to end tenancy has passed, the landlord is entitled to an Order of Possession effective 2 days after service upon the tenant.

Although I uphold the landlord's notice under section 47, I also find the landlord's notice to end tenancy issued under section 49.1 to be valid. Based on the undisputed evidence of the landlord, I find that the tenant failed to comply with the qualifications as set out in the expectation letter dated September 22nd by failing to check in with her Tenant Liaison Worker every 48 hours or meet with the housing team to create a plan to support her success in the program. I find the landlord was within their right to terminate the tenant's participation in the Youth Housing Program and this caused the tenant to no longer qualify for the subsidized housing. I uphold the landlord's notice to end tenancy issued under section 49.1.

Pursuant to section 55, if a landlord's notice to end tenancy is upheld, the director must grant the landlord an Order of Possession if the landlord's notice to end tenancy complies with section 52. Pursuant to section 52, I have reviewed both the landlord's notices to end tenancy and I find they both comply with the form and content provisions as set out in that section.

Conclusion

I grant the landlord an order of possession effective 2 days after service upon the tenant.

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: March 17, 2023

Residential Tenancy Branch