



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding CENTRAL ISLAND INVESTMENT LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

On October 27, 2022, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Tenants attended the hearing. B.C. and S.L. attended the hearing as agents for the Landlord. B.C. confirmed the correct legal name of the Landlord, and the Style of Cause on the first page of this Decision has been amended accordingly.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Service of the Notice of Hearing package and the parties’ evidence was discussed and there were no issues with service. As such, I have accepted all of the parties’ evidence and will consider it when rendering this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants entitled to have the Landlord's Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on September 1, 2010, and that there was no written tenancy agreement as Tenant N.B. had moved from a different unit in the building. Rent was currently \$646.00 per month and was due on the first day of each month. A security deposit of \$262.50 was transferred from N.B.'s original tenancy.

B.C. advised that the Notice was served to the Tenants by attaching it to their door on October 25, 2022. Clearly the Tenants received this as they indicated as much in their Application, and they disputed the Notice within the legislated timeframe. The reason the Landlord served the Notice is because the "Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord." The effective end date of the tenancy was noted as November 30, 2022, on the Notice.

B.C. then testified that there has been a history of noise complaints against the Tenants due to loud music, fighting, screaming, the use of abusive language, and what appeared

to be engaging in domestic disputes. He stated that the Tenants would be warned about their conduct, and that they would refrain from engaging in these behaviours for a time; however, they would then start up again.

He referenced a warning letter dated March 25, 2022, where there were several complaints from other residents of the building who heard the sounds of fighting, yelling, and obscenities emanate from the rental unit. He submitted that he personally heard the extent of these disturbances, which he described as a domestic dispute involving a high level of screaming, yelling, banging, and crashing. He stated that these incidents occurred on March 16, 2022, and March 18, 2022, and were likely due to the Tenants being under the influence of alcohol. He testified that due to the escalation of these interactions, the police attended for the latter incident, and he believes that the police removed N.B. from the rental unit.

He referenced complaint letters submitted by other residents of the building to support the Landlord's position that the Tenants have been causing these disturbances, and he noted that residents are ending their tenancies because of how extreme these disruptions are.

S.L. advised that when the Tenants were warned of their behaviour, Tenant K.B. called her and was angry and hostile towards her.

B.C. advised that he spoke with K.B. primarily about these concerns because N.B. was "unapproachable" and that a previous manager described her as being "aggressive". He testified that there was another domestic dispute in the rental unit on or around October 24, 2022, involving fighting, yelling, and hurling of obscenities, which prompted service of the Notice. He referenced the documentary evidence submitted to corroborate this incident.

K.B. confirmed that a neighbour complained about the volume of their music in August 2020, and he stated that they turned it down when asked. He then acknowledged that they received the March 25, 2022, warning letter and when he was asked how they responded to it, he stated that he contacted B.C. to ask what it was about because they did not understand. He advised that B.C. told him it was about a noise complaint and that he was required to inform the Tenants of this. K.B. was given multiple opportunities to provide submissions directly refuting B.C.'s testimony regarding the details of the noise complaints; however, he did not at any time dispute those details, other than to state that no police attended the rental unit in March 2022. However, he did state that

the police did attend the building to batter down the door of a neighbouring rental unit due to a separate investigation.

He then acknowledged that in October 2022, N.B. had a “meltdown” and that he was trying to “calm her down” because she wanted to go upstairs to “deal with” a resident upstairs that she had a grievance with. He advised that the police did attend due to this incident, and he informed them that she was “on her meds” and that it was fine. However, as they were leaving, he testified that she screamed at him for calling the police, and the police deemed her following conduct inappropriate, so they extracted her from the rental unit. He stated that she was “under mental distress”.

As a note, K.B.’s submissions primarily focussed on airing their grievances about their dissatisfaction with other residents in the building. However, he would constantly have to be reminded that this matter concerned the allegations of the Tenants’ conduct, and that only testimony in response to the Landlord’s assertions would be relevant.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the 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 have reviewed the Landlord’s One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

I find it important to note that the Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

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

(ii) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

I also find it important to note that when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. Given the contradictory testimony and positions of the parties, I may also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

When reviewing the totality of the evidence, I have before me testimony from K.B. acknowledging that in October 2022, N.B. was angry at another resident of the building and wanted to personally confront this person. Furthermore, K.B. confirmed attempting to stop her from doing this, and that their interaction deteriorated to the point that police intervention was required, and N.B. was forcibly removed from the rental unit. Moreover, with respect to this incident, at no time did either of the Tenants refute the Landlord's allegations, or the complaints, of their conduct involving fighting, yelling, and the use of obscenities. As such, I accept that there were undoubtedly unacceptable and inappropriate behaviours exhibited by the Tenants in October 2022.

While K.B. denied that the police ever attended the rental unit due to disturbances in March 2022, I note that he was provided with multiple opportunities to refute B.C.'s allegations of their conduct during this month, which resulted in service of the warning letter. However, at no time did he deny engaging in any of the aforementioned behaviours. Given this, I accept that the Tenants did fight, yell, and hurl obscenities to the extent that it unreasonably disturbed other residents of the building.

Given my assessment of the evidence before me, I find, on a balance of probabilities, that there is a clear pattern of unacceptable and inappropriate behaviours exhibited by the Tenants, and that this is more consistent with the Landlord's evidence. As such, I prefer the Landlord's evidence on the whole as the testimony and evidence from the Landlord is more credible and reliable than that of the Tenants. I am satisfied that the Tenants, more likely than not, engaged in these unnecessary, unacceptable, and belligerent behaviours that are wholly inexcusable. Consequently, I am satisfied that the

Tenants' actions resulted in them jeopardizing their own tenancy. Thus, I find that the grounds for ending the tenancy have been substantiated.

As the Landlord's Notice is valid, and as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of November 30, 2022, on the One Month Notice to End Tenancy for Cause, is changed to the nearest date that complies with the law. Since that effective date has passed, I grant the Order of Possession effective **two days** after service of this Order on the Tenants.

As the Tenants were not successful in their Application, I find that the Tenants are not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I dismiss the Tenants' Application for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord effective **two days** after service of this Order on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed 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: March 17, 2023

Residential Tenancy Branch