



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding SURREY VILLAGE HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant on December 6, 2022, under the *Residential Tenancy Act* (the Act), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (One Month Notice); and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 9:30 am on April 17, 2023, and was attended by the Tenant and three agents for the Landlord (Agents). All testimony provided was affirmed. As the Agents acknowledged receipt of the Notice of Dispute Resolution Proceeding (NODRP) and raised no concerns about the service date or method, the hearing proceeded as scheduled. As the parties acknowledged receipt of each other's documentary evidence, I accepted the documentary evidence before me for consideration. The parties were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The parties were advised that interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that recordings of the proceedings are prohibited, and confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration as set out above, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be sent to them in the manner requested at the hearing.

Preliminary Matters

I noted that the landlord named in the Application is an individual, while the landlord named in the tenancy agreement is a corporation. The parties confirmed that the landlord is a corporation, not an individual, that the individual named as the landlord in the Application is an agent for the landlord, and agreed that the corporation should have been named as the landlord. With the consent of the parties, I amended the Application to correctly name the corporation as the landlord (Landlord).

Issue(s) to be Decided

Is the Tenant entitled to cancellation of the One Month Notice?

If not, is the Landlord entitled to an order of possession?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

There was no dispute between the parties that a tenancy under the Act exists between the Tenant and the Landlord, and that rent is due on the 1st day of the month.

The parties agreed that the One Month Notice was posted to the door of the rental unit on December 2, 2022, and received by the Tenant that day. The One Month Notice is signed and dated December 2, 2022, has an effective date of January 31, 2023, and gives the following reasons for ending the tenancy:

- The Tenant or a person permitted on the residential property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property; and
- The Tenant or a person permitted on the residential property by the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord;

In the details of cause section of the One Month Notice it states the following:

Details of Cause(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.

Details of the Event(s):

On November 27, 2022 resident came to office in an aggitated state and berated office staff, threatened the safety of the female manager, took photos of the manager, made sexually demeaning comments regarding the female manager, threatened the manager due to her religious preferences, took unwanted photos of the manager and chased the her into the back office while she was attempting to get away from him in order to protect her safety. Police were called and attended to the office immediately and spoke with the resident and forced him to delete the photos on his phone. The police made it very clear to the resident that he was not to return to the office and was only to deal with the Area Manager who had also attempted to calm the resident down over the phone. Once the police left and within the hour the resident returned to the office banging on the office door and yelling at the manager who had locked herself inside. The behaviour was witnessed by another staff member who was in the office at the time of the first incident.

The Agent MP stated that the Tenant has a history of disruptive behaviour and abuse towards staff, the most recent incident of which occurred on November 27, 2022. MP stated that on that date the Tenant attended the office in an agitated state, berated them, threatened their safety, made sexually demeaning comments to them, made derogatory comments about their religious preference, took unwanted photographs of them, and chased them as they fled to a back office to get away. MP stated that this incident was witnessed by another agent for the Landlord, BF, who also attended the hearing, and that the police were called. MP pointed to a video submitted for my review wherein they state that the Tenant can be seen chasing after them, as well as a photograph and police file number showing that the police attended. MP stated that another agent for the Landlord LZ attempted to deescalate the Tenant by phone without success.

MP stated that although the Tenant was advised by police not to reattend the office, they returned approximately one hour later and banged on the door, which had been locked for staff safety. MP stated that they continue to be afraid of the Tenant and that the Tenant threatened BF the following day. BF stated that they witnessed the above noted incident and described the Tenant's behaviour as very aggressive. BF stated that on November 28, 2023, the Tenant drove by them on the property, asked them about MP, and told BF that if they had not been in their uniform, they would have punched them in the face. MP and BF pointed to an incident report dated November 27, 2023, in support of their testimony.

MP also stated that on February 21, 2019, the Tenant was issued a warning letter regarding their behaviour, a copy of which was submitted for my consideration, wherein

they were advised that they were banned from the office while under the influence of substances and warned that the Landlord would proceed with an eviction if they were aggressive or threatening towards staff in the future.

Although the Tenant agreed that he was agitated when he attended the office on November 27, 2022, due to ongoing pest infestations in the rental unit and a lack of sleep, they denied threatening or chasing MP. They also denied the presence of another staff member in the office on November 27, 2022. The Tenant stated that MP has engaged in bullying behaviour towards them and is always dismissive of their and other tenants' complaints. The Tenant stated that MP was again dismissive of their complaints regarding pests and bed bugs, simply advising them to leave. As a result, they took a photo with a time stamp as evidence. The Tenant denied chasing MP stating that she was not a stable person and was simply running around in a fit. While the Tenant agreed that the police were called and that they attended, they alleged that this occurred not due to their behaviour but because MP had called 911 falsely reporting that they were being physically harmed by the Tenant.

The Tenant also denied being advised not to attend the office and ordered to delete photographs, stating that they complied willingly with the police officer's polite request to delete them, and encouraged to avoid the office but not ordered to stay away. Overall, the Tenant's position was that the allegations against them are made up and entirely false as the Landlord is manufacturing a reason to end their tenancy as they are a long-term tenant and the Landlord does not want to update or maintain the rental unit as required, without being able to get more money for rent.

The Tenant acknowledged tapping on the glass of the office as they walked by later in the day, but denied banging on the door. They also denied being spoken to on the phone by another agent for the Landlord LZ. The Agents therefore called LZ as a witness. LZ stated they spoke with the Tenant on the phone on November 27, 2022, that the Tenant was very agitated, and that the Tenant called MP several degrading names during the call. The Tenant then revised their testimony, agreeing the LZ called them later that day when they were back in the rental unit, but not during the alleged incident at the office, and that LZ had immediately blocked their phone number afterwards.

Analysis

Based on the affirmed testimony of the parties and the documentary evidence before me, I am satisfied that a tenancy to which the Act applies exists between them and that the Tenant was served with the One Month notice in accordance with the Act on December 2, 2022. I am also satisfied that the Tenant disputed the One Month Notice on time.

Is the Tenant entitled to cancellation of the One Month Notice?

Although the Tenant argued that the allegations against them were invented by the Landlord and their agents as an excuse to evict them because they are a long term tenant, do not wish to repair and maintain the rental unit as required, and want more rent, I am not satisfied that this is the case. The Tenant did not submit any documentary or other corroboratory evidence in support of these allegations. In contrast, three agents for the Landlord provided affirmed testimony regarding the Tenant's behaviour, which they characterized as aggressive, threatening, demeaning and derogatory. Additionally, the Agents submitted substantial documentary evidence in support of the grounds noted on the One Month Notice including but not necessarily limited to previous warning letters and complaints regarding their behaviour, an incident report dated November 27, 2022, a police file number, photographs, and a video.

I find the above noted video particularly compelling, as it clearly shows the Tenant taking a picture of MP before attempting to follow MP as they retreat, and being stopped by BF. This is consistent with the affirmed testimony provided by BF and MP, as well as the supporting documentary evidence submitted on behalf of the Landlord. As a result, I find it to be reliable and credible. In contrast, I find the Tenant's testimony to be inconsistent, and contradictory. They first denied having a conversation with LZ, before they retracted this statement after LZ provided affirmed testimony. They also testified that only they and MP were in the office on November 27, 2022, which is clearly inaccurate given the video evidence before me which I have already found to be both credible and reliable.

As a result, I prefer the evidence and testimony of the Agents and I am satisfied on a balance of probabilities that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord. As a result, I find that the Landlord has grounds to end the tenancy pursuant to sections

47(1)(d)(ii) and (iii) of the Act. I therefore dismiss the Tenant's Application seeking cancellation of the One Month Notice without leave to reapply.

Is the Tenant entitled to recovery of the filing fee?

As the Tenant's Application is dismissed, I decline to grant them recovery of the filing fee.

Is the Landlord entitled to an order of possession?

As the Tenant's Application seeking cancellation of the One Month notice is dismissed, I am satisfied that the One Month Notice was properly served, and I am satisfied that it complies with section 52 of the Act, I find that the Landlord is entitled to an order of possession pursuant to section 55(1) of the Act. As the effective date of the notice has passed, and the parties agreed that rent for April 2023 had been paid, I therefore grant the order of possession effective at **1:00 pm on April 30, 2022**, after service on the Tenant, pursuant to sections 55(1) and 68(2)(a) of the Act and the request of the Agents at the hearing.

Conclusion

The Tenant's Application seeking cancellation of the One Month Notice and recovery of the filing fee is dismissed without leave to reapply.

Pursuant to section 55(1) of the Act, I grant an order of possession to the Landlord effective **1:00 pm on April 30, 2022**, after service on the Tenant. The Landlord is provided with this order in the above terms and the Tenant must be served with this order as soon as possible. Should the Tenant fail to comply with this order, it may be filed in 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 Act.

Dated: April 19, 2023

Residential Tenancy Branch