



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding BARLOW HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes 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 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

Both the tenant and the landlord attended the hearing. The landlord acknowledged service of the tenant's Notice of Dispute Resolution Proceedings package and the tenant acknowledged service of the landlord's evidence.

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 notice 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 parties agree that the tenant was served with the landlord's notice to end tenancy for cause when it was posted to her door on November 26, 2022. The tenant filed her application to dispute the notice on November 29, 2022.

The landlord cited 5 reasons for ending the tenancy:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. 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;
3. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
4. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;
5. breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

The "details of cause" states:

On November 15, 2022 the tenants were fighting and causing excessive noise and disturbing the other tenants. The tenant broke in the door causing damage to the unit and the police came to stop the disturbance and removed 1 of the tenants. On November 25, 2022 the police were called by the tenants downstairs as the tenant was uttering threats and was intoxicated and causing excessive noise again. The police were called around 3:40pm on November 25, 2022.

The landlord testified that he had attended the building on April 11, 2022 and on this day, he heard fighting and yelling coming from one of the suites. He discovered the noise was coming from the tenant's unit. When he got to their door, he heard loud fighting. He waited to see if the noise would stop and when it didn't, he left and documented the

date and time. A caution notice was served on the tenants on April 15th warning that the yelling is a breach of the tenancy agreement and must stop immediately. The landlord states he was told by other tenants that it has happened before and that the police have been called.

On November 15th, the tenants were once again fighting and the co-tenant IB left the unit. IB broke the door frame to the unit after he was locked out by the tenant. The landlord testified that this is the extraordinary damage noted on the landlord's notice to end tenancy.

The tenant testified that she and IB were arguing on November 15th and that IB told her that he was leaving and not coming back. The tenant put the chain lock on the door to prevent IB from re-entering, however when IB returned, he broke the door frame to regain entry. In her written statement dated December 6, 2022, the tenant advises that she called the police to have IB removed and that he broke the door chain along with the board on the left side of the door frame that the chain was attached to. I note that on the second page of the letter, the tenant states that she asked IB to return as she is afraid of being alone.

The tenant testified that she advised the landlord about the damaged door right after it happened and that she fixed the door frame using some nails. The tenant provided a photo of the fixed door into evidence.

Analysis

I find the tenant filed her application to dispute the landlord's 1 Month Notice to End Tenancy for Cause within 10 days of being served with it, in accordance with section 47 of the Act. When a tenant files an application to dispute a landlord's notice, the landlord bears the burden to prove he or she has valid grounds to terminate the tenancy for cause. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the Notice.

While the landlord provided 5 different reasons for ending the tenancy, I find that the tenancy should end for one specific reason:

Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;

Both parties agree that IB damaged the door frame the night of November 15, 2022. Although the tenant argues that IB damaged the door frame because she and IB were

arguing, the damage to the unit was nonetheless done. I find the action of the co-tenant on November 15, 2022 justifies ending the tenancy.

The breaking down of the door by IB, a tenant named on both the tenancy agreement and the notice to end tenancy, was deliberate and done intentionally. The actions of breaking down the door caused what I accept as extraordinary damage to the unit. While IB may have broken the door down in the heat of an argument with the tenant, this action still qualifies as a sufficient reason for ending the tenancy for causing extraordinary damage to the unit.

I have viewed the photograph of the “fixed” door provided as evidence by the tenant. I note that while the moulding to the left of the door may have been reattached using nails, there remains extensive damage done to the drywall to the left of the moulding. I find that it would be unreasonable for the landlord to have this tenant remain occupying the rental unit, given the damage done to the unit by the other tenant named on the tenancy agreement and the notice to end tenancy.

While the parties gave testimony regarding the other reasons for ending the tenancy, I find the reason of extraordinary damage done to the rental unit by the tenant or the co-tenant is sufficient, and the other reasons will not be determined in this decision. I uphold the landlord’s notice to end tenancy for cause issued pursuant to section 47(1)(f).

Pursuant to section 55(1)(b), I grant the landlord an order of possession. As the effective date of the notice to end tenancy has passed, the landlord is entitled to the order of possession 2 days after service upon the tenant.

Conclusion

I grant an Order of Possession to the landlord effective 2 days after service on the tenant. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: April 12, 2023