



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC

Introduction

On January 12, 2023, the Tenant filed their Application at the Residential Tenancy Branch to dispute the One-Month Notice to End Tenancy for Cause (the “One-Month Notice”) served by their Landlord on January 9, 2023.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on May 9, 2023. Both parties attended the teleconference hearing. At the outset of the hearing each party acknowledged service of the other’s evidence.

Issues to be Decided

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

If the Tenant is unsuccessful in this Application, is the Landlord entitled to an Order of Possession of the rental unit, in line with the One-Month Notice, pursuant to s. 55 of the *Act*?

Background and Evidence

Both parties provided a copy of the tenancy agreement. The tenancy started on August 1, 2017 as shown in that agreement.

The Landlord issued the One-Month Notice on January 9, 2023. This set an end-of-tenancy date for February 28, 2023. Both parties provided a copy of this document in their evidence. The reason provided on page 2 of the document is:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord

The Landlord provided the following details on page 2 of the document:

The RCMP were called to [the rental unit] in the early morning of December 25, 2022. There was loud yelling and screaming between the tenant [name of Tenant] and another male . . . There was a warning letter given to [the Tenant] from another occurrence on November 14, 2022. There was yelling and screaming from [the Tenant's guest] in the hall in front of [the rental unit] entrance. The entrance door [to the rental unit] was damaged and had to be repaired. Picture of the damaged door taped together are available for viewing.

The Landlord provided warning letters to the Tenant in their evidence, March 8 (noting documented 7 domestic disputes), November 15 (a broken rental unit door as a result of a disturbance, with photos), and December 5, 2022 (early morning noise).

The Landlord included complaints from other building residents:

- 11/15/2022: Tenant's fights with their locked out guest, from a neighbour – this resulted in a kicked-in door
- 12/5/2022: another building resident calls 911 after hearing the Tenant yell out in pain – at approximately 5:30am
- 12/25/2022: "tenant yelling and slamming doors, etc."
- 1/5/2023: describing events of Dec 25, neighbour describes calling 911 as a result of Tenant's domestic dispute
- 1/12/2023: Jan 7 domestic dispute involving "loud banging noises" and a physical struggle
- 2/8/2023: neighbour complaint about "banging/smashing" in a rage, fighting within the rental unit that extends out into the parking lot
- 2/10/2023: Tenant's guest again "trashing their apartment"
- 2/12/2023: neighbour reports fighting between Tenant and guest between 2am and 3am, affecting this neighbour's peace and quiet

The Landlord provided 2 documents titled "Loss of Quiet Enjoyment", bearing four building resident signatures dated January 2 and January 3, 2023. This informs the Landlord that their right to quiet enjoyment, particularly by

repeated unreasonable disturbances caused by the tenant in [the rental unit] that include screaming, yelling, slamming doors, banging on the walls, overturning furniture, breaking items, and fighting with [their guests] at all hours of the day and night.

Impeded from using the hallway on a regular basis due to the fights between the tenant in [the rental unit] and [their guests] as they spill into the hallway. They throw items into the hallway from the apartment. The [Tenant's guest] repeatedly yells, pounds on [the rental unit's] door, and has recently even kicked in [the rental unit's] door when [the Tenant] locked [their guest] out.

In the hearing, the Landlord stated they confirmed with the owner of the rental unit that they wanted to end the tenancy. The Landlord reiterated that the dates involved were all relatively recent, prior to their service of the One-Month Notice to the Tenant here. The police attended to calls "regularly", and this was not in response to only one other resident's calls.

The Tenant provided a copy of their letter to the rental unit owner, dated January 16, 2023. They described their guest as living elsewhere and only staying on a temporary basis occasionally. They explained their position that certain of their neighbours were making accusatory calls in error, mostly due to the thin walls in the building. Additionally, the door being broken into in November was a medical emergency at the time, and they repaired the door soon thereafter.

They submitted a transcript of two points acknowledged by the rental unit's owner:

- all sound radiates through the building's structure
- suggesting to add the Tenant's guest to the tenancy agreement

The Tenant also included a support from one other neighbour. One neighbour cites the normal closing of doors as mistakenly identified as "slamming", with little sound protection in the building.

In the hearing, the Tenant presented that one neighbour in this situation is bullying them and is responsible for coaching others to write complaints. They mentioned that they have ongoing mental health issues, requiring doctors' support since 2016. More recently, there was a lapse in their medication that they were not able to compensate for.

Analysis

The *Act* s. 47(1) provides authority for a landlord to issue a notice to end a tenancy if a tenant:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

In this matter, the onus is on the Landlord to prove they have cause to end the tenancy.

I find the Landlord has provided sufficient evidence to show the Tenant unreasonably disturbed other occupants in the rental unit property. This was for a sustained period of time, and not rectified after the issuance of warning letters to the Tenant, each of them addressing the same Tenant behaviour that was problematic for others.

I find the Landlord's record is consistent and accurate on dates, and provides sufficient description of the actions involving the Tenant and their guest. The Tenant focused on one other resident being the source of complaints; however, I find this reasonable in the circumstances where that resident was in the best position to make particular observations, and bore the burden of the Tenant's disturbances. I find that resident's statements are, on a balance of probabilities, accurate in this regard. The Tenant did not point to other actions from this particular resident that would allow me to conclude there was some campaign in place with ulterior motives to wrongfully end this tenancy.

Further, I find the other residents were conscious of s. 28 of the *Act*, and presented evidence to the Landlord in terms of their own quiet enjoyment being negatively affected by the repeated instances of disturbance brought by the Tenant here. I find this lends weight to the Landlord's evidence, where each individual involved has an idea of what acceptable behaviour means with respect to the *Act*. I note also that the disturbances bear similarity in describing odd hours of disturbances.

I find the Tenant attempted to draw down the Landlord's evidence; however, they did not provide evidence that outweighs that of the Landlord in this hearing. They did not provide ample description of their medical issues that may have contributed to the disturbances for which they were the source; therefore, given the lack of evidence I determine that issue is not relevant. As set out above, the Tenant did not provide specific instances of other types of behaviour from one neighbour in particular that would point toward some bullying that would taint that individual's account. In contrast, I have the Landlord's evidence from different residents in the building who describe the same behaviour by the Tenant and their guest.

As well, I find the Tenant's dialogue with the building owner, such as it is presented, is negligible in value. The issues of rent being paid, and the status of their guest as not being normally resident in the building are not relevant.

I find this was not a single instance of a medical issue requiring the Tenant's own door to be forced open. I find the Landlord's evidence shows a consistent pattern of behaviour and actions by the Tenant and their guest that causes disturbance to other residents in the building. This was over a significant period of time, for which the Tenant was warned, and the other residents rightfully presented their own concerns to the Landlord in terms of the impact to their own quiet enjoyment in the rental unit building. I find that is sufficient proof of the reason the Landlord seeks to end this tenancy.

For the reasons above, I find the Landlord's grounds for seeking to end this tenancy are valid. I find the Tenant's conduct, based on repeated incidents of significant impact, arose to the level that can be described as "unreasonable" and "significant" based on the information provided by other residents to the Landlord that the Landlord presented accurately.

I cancel the Tenant's Application to cancel the One-Month Notice. The tenancy is ending.

Under s. 55 of the *Act*, when a tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied the document complies with the requirements under s. 52 regarding form and content, I must grant the landlord an order of possession.

I find that the One-Month Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession on the effective date.

Conclusion

I dismiss the Tenant's Application in its entirety and without leave to reapply.

I grant an Order of Possession to the Landlord, effective May 31, 2023 at 1:00pm. Should the Tenant fail to comply with this Order, the Landlord may file it with the Supreme Court of British Columbia where it will be 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 s. 9.1(1) of the *Act*.

Dated: May 23, 2023

Residential Tenancy Branch