



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

The Tenant filed the Application for Dispute Resolution on January 30, 2024 seeking a cancellation of an end-of-tenancy notice from the Landlord. They also applied for recovery of the Application filing fee, and the Landlord's compliance with the legislation/tenancy agreement.

The Landlord filed their Application on February 2, 2024 for an order of possession associated with the same end-of-tenancy notice. They too applied for recovery of the filing fee.

The matter thus proceeded to a hearing, pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act") on April 15, 2024. The Landlord and the Tenant both attended the scheduled hearing.

Preliminary Matter – service of documents and evidence

The Tenant served Notice of Dispute Resolution Proceeding to the Landlord via registered mail. The Landlord acknowledged this service in the hearing.

The Landlord stated they received no evidence from the Tenant for this hearing. The only evidence the Tenant submitted to the Residential Tenancy Branch was a copy of the end-of-tenancy notice. I find the Landlord, who created and served this document to the Tenant originally, is not prejudiced by any evidence from the Tenant not served to the Landlord for this hearing.

The Landlord sent evidence to the Tenant at the current rental unit address. Though the Tenant does not currently reside in the rental unit by order of police, I find the Landlord used the address for service provided by the Tenant for this hearing. The

Landlord used registered mail to the Tenant for this purpose, as shown in the registered mail documentation they provided.

The Landlord served the Notice of Dispute Resolution to the Tenant at the rental unit address via registered mail. I find the Landlord completed service of their own notice to the Tenant as required.

The Landlord served evidence to the Tenant via registered mail on February 6, 2024. I deem this evidence served to the Tenant on February 11, 2024 as per s. 90(a) of the *Act*.

Because I verified service with the parties in the hearing, and the Landlord in particular provided evidence of their correct service to the Tenant, I give all evidence in this matter full consideration where necessary and relevant herein.

Issues to be Decided

- Is the One Month Notice to End Tenancy for Cause (the “One-Month Notice”) signed January 8, 2024 by the Landlord valid? If valid, is the Landlord entitled to an Order of Possession?
- Is the Tenant eligible for recovery of the Application filing fee?
- Is the Landlord eligible for recovery of the Application filing fee?

Background and Evidence

The parties agreed that the tenancy started on August 15, 2018. The Landlord provided a copy of their tenancy agreement. The document provides for specific conditions by which a tenant must abide during a tenancy. The Landlord provided a copy of the addendum that specifically addressed crime free housing, signed by the Tenant on August 9, 2018.

The Landlord provided a copy of the Critical Incident Report of January 3, 2024 for the incident that prompted the Landlord to end the tenancy via the One-Month Notice. In this incident, the Tenant assaulted their neighbour, using their vehicle to effect this. This involved striking the neighbour, and threatening to kill that neighbour.

The Landlord served the One-Month Notice to End Tenancy on January 8, 2024 for this incident.

On page 2 of the document, the Landlord indicated the following reasons:

- Tenant . . .
 - significantly interfered with or unreasonably disturbed another occupant . . .
 - seriously jeopardized the health or safety or lawful right of another occupant . . .
- Tenant . . . has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant. . .

The Landlord provided details on page 2:

Tenant . . . willfully sought out and struck another resident . . . with his vehicle causing him injury. Following striking him with his vehicle he began to physically assault tenant . . . with multiple tenants witnessing this event while shouting he was going to kill him. The Tenant was arrested for assault with criminal charges pending and his behaviour violates our Crime Free Addendum as well as common morality expectations for our residents. The assault took place on Tuesday January 2, 2024 on the edge of our housing property address . . .

The Landlord re-stated these details in the hearing.

In response to this, the Tenant stated that, from the start of this tenancy, they reiterated to the Landlord their need for a quiet space for their health reasons. Their neighbour violated this quiet space and harassed or abused the Tenant at every opportunity, often going out of their way to do so. The Tenant described their reaction to this on January 2, 2024. Throughout their description, the Tenant reiterated that the Landlord was aware of the situation and did not help the Tenant with this.

On hearing this, the Landlord responded to say that the Tenant's actions on January 2 were way out of measure with any situation involving their neighbour.

In the hearing, the Tenant presented that they were ordered by the police to not return to the rental unit property. They have been away since the date of the incident, residing elsewhere at roughly double the cost of rent. The Tenant asked for the tenancy to not end, and for accommodation at another property of the Landlord (termed by the Landlord as a "transfer"); this would not violate any order that the Tenant stay away from the rental unit property.

Analysis

The *Act* s. 47 sets out the reasons for which a Landlord may give a One-Month Notice. This includes the reasons indicated on the One-Month Notice that the Landlord served to the Tenant here.

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

I find the Landlord provided sufficient evidence in this matter that the Tenant violated the crime-free addendum of the agreement.

More importantly, the Landlord provided sufficient evidence to show that the Tenant committed an act that positively served as a reason they seek to end the tenancy. I find the Tenant's action of January 2, 2024 is a reason that a Landlord may end a tenancy, and the Landlord proved that in this hearing.

I find the actions of the Tenant on January 2, 2024 were extreme in the circumstances. They are not excused from these actions by their claims that the Landlord did not sufficiently address the situation before it got to this stage. Though the parties gave different accounts of the complaint raised by the Tenant and whether it was the correct procedure, I find that matter irrelevant to the reason the Landlord is ending the tenancy.

For these reasons, I dismiss the Tenant's Application, without leave to reapply.

Where a tenant applies to dispute and that Application is dismissed, by s. 55(1) of the *Act*, I must grant a landlord an order of possession if the notice complies with s. 52 of the *Act*. On my review, I find that the One-Month Notice complies with s. 52 of the *Act*.

I grant the Landlord an Order of Possession on this basis.

The Tenant was not successful in this Application; therefore, I dismiss their claim for recovery of their Application filing fee. The tenancy is ending; therefore I dismiss the Tenant's Application for the Landlord's compliance, without leave to reapply.

The Landlord was successful in their Application for an order of possession. I authorize the Landlord to deduct the Application filing fee amount of \$100 from the security deposit they are still holding in this tenancy, authorized by s. 72(2)(b) of the *Act*.

Conclusion

I grant an Order of Possession to the Landlord **effective by 1:00 PM on April 30, 2024, after service of this Order on the Tenant**. Should the Tenant or anyone on the premises fail to comply with this Order, the Landlord may file this Order in the Supreme Court of British Columbia where it will be enforced as an Order of that Court.

As consented to by the Tenant in the hearing, I authorize the Landlord to serve any documents to the Tenant via email. I re-stated and verified the parties' emails at the conclusion of the hearing.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: April 15, 2024

Residential Tenancy Branch