

DECISION

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act
- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order to allow access to or from the rental unit for the Tenant or the Tenant's guests under sections 30 and 62 of the Act
- an order for the Landlord to provide services or facilities required by law under section 27 of the Act
- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- authorization to change the locks to the rental unit under section 70(2) of the Act
- an order allowing the Tenant to assign or sublet because the Landlord's permission has been unreasonably withheld under sections 28 and 58 of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

This hearing also dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find the Landlord was served notice of the dispute resolution proceeding in accordance with the Act.

I find the Tenant was served notice of the dispute resolution proceeding in accordance with the Act.

Service of Evidence

I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

Preliminary Matters

I informed the parties at the outset that due to time constraints I was only going to hear the most urgent claim, which was whether the tenancy would continue and if not, whether the Landlord was entitled to an Order of Possession.

For this reason, the following claims by the Tenant were dismissed with leave to reapply:

- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order to allow access to or from the rental unit for the Tenant or the Tenant's guests under sections 30 and 62 of the Act
- an order for the Landlord to provide services or facilities required by law under section 27 of the Act
- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- authorization to change the locks to the rental unit under section 70(2) of the Act
- an order allowing the Tenant to assign or sublet because the Landlord's permission has been unreasonably withheld under sections 28 and 58 of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

Issues to be Decided

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to recover the filing fee for this application from the Tenant under section 72 of the Act?

Background and Evidence

I have reviewed all evidence but will refer only to what I find relevant for my decision.

The tenancy began on July 1, 2018, with the Tenant currently paying monthly rent of \$1,205.00. The Landlord is holding the Tenant's security deposit of \$500.00.

On January 31, 2024, a One Month Notice to End Tenancy for Cause was served to the Tenant in person. In it, the Landlord alleged that the Tenant had unreasonably disturbed other occupants of the building and the Landlord.

Specifically, the Landlord stated that the Tenant routinely made loud noises, often in the middle of the night, and that this was creating a significant disturbance for other Tenants whom they claimed were complaining about this on a daily basis. The Landlord provided copies of three written complaints that had been received.

The Landlord said that approximately two years ago, the Tenant began acting irrationally, throwing glass items such as dishes off of her second story balcony which the Landlord has had to clean up. The Tenant regularly makes bizarre and outlandish statements about other Tenants as well as the building manager and assistant building manager. For instance, the Landlord said that the Tenant had accused the building manager and assistant building manager of engaging in illegal activity and telling this to employees of a nearby grocery store.

The Landlord also said that the Tenant had told them that the tenant residing above her had drilled holes in his floor so that he could observe her while she was in the shower. The Landlord insisted that there was no evidence of this and added that the Tenant residing above her was quiet and rarely had visitors.

The Landlord said that police officers regularly attended the building in response to the Tenant's actions. Often these took the form of a wellness check on the Tenant. These efforts were often frustrated however as the Tenant would not permit them to enter.

The Tenant applied for dispute resolution on February 7, 2024, seeking to have the Notice dated January 31, 2024, cancelled.

The Landlord applied for dispute resolution on February 15, 2024, seeking an Order of Possession pursuant to the second Notice dated January 31, 2024.

Both parties' applications were heard on April 25, 2024.

The Tenant denied that she had made any loud noises or disturbed other occupants.

At the hearing, the Tenant insisted that other tenants as well as the building manager and assistant building manager were all involved in illegal activity which included the smoking of marijuana and crack on the balconies and that she was being exposed to this.

The Tenant also claimed that the Tenant residing above her was running a prostitution ring and having large parties where the building manager and assistant building manager would attend and get “drunk and stoned”. The Tenant added that the building manager was interfering with her laundry and damaging her underwear items.

The Tenant said that if anything had fallen off her balcony, this would have been an accident and as a result of her efforts to clean the balcony.

The Tenant said that the police had attended the building in response to her complaints about all of the illegal activity which she claimed was ongoing throughout the complex..

Analysis

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

I find that the One Month Notice dated January 31, 2024, was personally served to the Tenant on January 31, 2024.

Section 47 of the Act states that a Landlord may issue a Notice to End Tenancy for Cause to a Tenant if the Landlord has grounds to do so. Section 47 of the Act states that upon receipt of a Notice to End Tenancy for Cause the Tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The Tenant disputed this Notice on February 7, 2024. I find that the Tenant has applied to dispute the One Month Notice within the time frame allowed by section 47 of the Act.

If the Tenant files an application to dispute the notice, the Landlord bears the burden to prove the grounds for the One Month Notice. I find that the Landlord has the burden to prove that they have sufficient grounds to issue the One Month Notice.

I find that the Landlord has proven they had sufficient grounds to issue the One Month Notice dated January 31, 2024.

Specifically, I find that the Landlord's testimony that the Tenant has behaved erratically, accusing the building manager, assistant building manager, and other occupants, of being involved in an assortment of illegal and debaucherous activity to be credible in

light of the fact that the Tenant recited these accusations during the hearing. I further find that the Tenant's allegations, which she was unable to substantiate, are baseless.

I accept that as a consequence of the Tenant's statements, which includes persistently promoting serious and unfounded accusations over a long period of time, the building manager, assistant building manager, and other occupants have been unreasonably disturbed. I also find, on a balance of probabilities, that the Tenant has engaged in making loud noises throughout the middle of the night on a regular basis. In reaching this conclusion, I have considered the testimony presented as well as the copies of written complaints provided by the Landlord.

I find that the Tenant has thrown glass items off of her balcony. I find that cumulatively, the Tenant's actions have created an atmosphere for the building manager, assistant building manager, and other tenants, that is both stressful and exhausting.

For the above reasons, the Tenant's application for cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act is dismissed, without leave to reapply.

Is the Landlord entitled to an Order of Possession based on a Notice to End Tenancy?

Section 55(1) of the Act states that if a Tenant makes an application to set aside a Landlord's notice to end a tenancy and the application is dismissed, the Arbitrator must grant the Landlord an order of possession if the notice complies with section 52 of the Act. I find that the One Month Notice dated January 31, 2024, complies with section 52 of the Act.

Therefore, I find that the Landlord is entitled to an Order of Possession.

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

As the Landlord was successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

The Landlord continues to hold the Tenant's security deposit in trust. In accordance with the off-setting provisions of section 72 of the Act, I order the Landlord to retain \$100.00 of the Tenant's security deposit in partial satisfaction of the monetary order.

Conclusion

I grant an Order of Possession to the Landlord **effective by 1:00 PM on May 31, 2024, after service of this Order on the Tenant(s)**. Should the Tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenant's application for cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act is dismissed, without leave to reapply.

I order the Landlord to retain \$100.00 of the Tenant's security deposit in partial satisfaction of the monetary order.

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 25, 2024

Residential Tenancy Branch