



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TLA ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on August 25, 2016 (the "Application"). The Tenant applied for an order cancelling a 1 Month Notice to End Tenancy for Cause, dated August 22, 2016 (the "1 Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing on his own behalf and was assisted by D.D. The Landlord was represented at the hearing by T.T.H. The Landlord also presented two witnesses, G.H. and C.F. All parties giving evidence provided a solemn affirmation.

No issues were raised with respect to service or receipt of the Notice of a Dispute Resolution Proceeding, dated August 25, 2016. Indeed, both parties attended the hearing and were prepared to proceed. Other than the 1 Month Notice submitted into evidence by the Tenant, neither party submitted any documentary evidence.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

Background and Evidence

The parties confirmed that the tenancy began roughly two years ago. Currently, rent in the amount of \$430.00 per month is due on the first day of each month. The Tenant paid a security deposit to the Landlord in the amount of \$215.00.

On behalf of the Landlord, T.T.H. provided oral testimony in support of the 1 Month Notice. She testified that the tenant makes excessive noise in his rental unit and in the hallway. Specifically, T.T.H. stated that when the Tenant is intoxicated, he argues loudly with guests in his rental unit, shouts in the hallways, and bangs on the doors of other tenants. T.T.H. also testified that she does not live on-site but has been called to the building in the early morning hours by other tenants complaining about the noise. T.T.H. also stated that, as a woman, she feels unsafe dealing with the Tenant, particularly when she believes him to be intoxicated.

G.H. was presented as a witness by the Landlord and provided oral testimony. He resides in the unit directly across the hall from the Tenant. G.H. testified the Tenant drinks a lot, has women in his room every weekend, and “yells and screams” in the hallway. G.H. testified this occurs on a regular basis, and that police often attend the building as a result of the Tenant’s behaviour.

C.F. was presented as a witness by the Landlord and provided oral testimony. He resides in the unit directly beside the Tenant. C.F. stated the Tenant is very loud and noisy, and that this can occur at any time of day. C.F. referred specifically to fights between the tenant and his guests, and banging on walls and doors in the hallway. He advised the police have attended the building many times as a result of the noise and disturbance. C.F. testified the Tenant’s noise has impacted his sleep, which has made things difficult at work. According to C.F., the Tenant apologizes but the behaviour does not change.

As a result of the Tenant’s alleged behaviour, the Landlord issued the 1 Month Notice on the bases that the Tenant had significantly interfered with or unreasonably disturbed another occupant or the Landlord, and had seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

In reply, the Tenant testified that other tenants, including G.H. and C.F., drink and play music loudly. The Tenant also stated that other tenants bang on his door. On one occasion, someone tried to advance into his rental unit.

Further, the Tenant testified that his hours of work are from 6:00 a.m. to 6:00 p.m., and that some days he does not return home until 9:30 or 10:00 p.m. On these days he makes his lunch for the next day and then goes to bed. The Tenant suggested it would have been difficult to make the noise being complained of given his work schedule.

Finally, the Tenant testified he is going through a difficult time. He stated that he suffers from depression, has attempted to end his life, and that his partner passed away on August 23, 2016.

On behalf of the Tenant, D.D. asked T.T.H. if the Landlord previously issued any warning letters to the Tenant about his behaviour. T.T.H. responded by confirming the Landlord has issued three previous notices to end tenancy in the last year for noise and disruption caused by the Tenant, and that she has discussed it with him. D.D. subsequently submitted that, in the absence of documentary evidence that written notices were given as claimed by T.T.H., the tenancy should continue.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause in the circumstances described therein. In this case, the Landlord wishes to end the tenancy on the bases that the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord, and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord. The burden is on the Landlord to provide evidence in support of ending the tenancy.

On behalf of the Landlord, T.T.H., G.H. and C.F. provided affirmed testimony. All testified that the Tenant regularly shouts and bangs walls when he is intoxicated, and that these disruptions have impacted sleep, work, and feelings of safety. In reply, the Tenant provided affirmed testimony alleging noise is also made by other tenants in the building, and describing personal circumstances relating to personal loss and other issues.

I find it is more likely than not that the Tenant has engaged in the behaviour described by the Landlord's witnesses, and that this behaviour has unreasonably disturbed other tenants and the Landlord. Accordingly, the Tenant's Application is dismissed and the 1 Month Notice is upheld.

When a tenant's application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord. Having reviewed the 1 Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Tenant's Application is dismissed and the 1 Month Notice upheld.

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of 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: October 21, 2016

Residential Tenancy Branch

