



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEW CHELSEA SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party. Neither party raised any service issues. As both parties have attended and confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am sufficiently satisfied that both parties have been deemed served as per section 90 of the Act.

Extensive discussions resulted in an adjournment as more time to complete the hearing is required. On November 6, 2018 the hearing was reconvened with both parties.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on March 1, 2011 on a fixed term tenancy ending on February 29, 2012 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated February 1, 2011. The monthly market rent was \$445.00 with the tenant's

subsidized portion being \$320.00 payable on the last day of each month. A security deposit of \$225.50 was paid.

Both parties confirmed that on July 25, 2018, the landlord served the tenant with the 1 Month Notice dated July 25, 2018 by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of August 31, 2018 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The details of cause listed are:

Please see attached Schedule "A"

An attached Schedule "A" is a typed letter referencing:

May 2018 the tenant sent unsolicited mass emails to the staff of a BC non-profit housing association and the royal Canadian Legion, "spreading false information to damage the reputation of the landlord and its' agents.

June 24, 2018, the tenant harassed several of the landlord's agents by approaching them in an aggressive manner about her judicial review and taking photographs of them without consent.

June 27, 2018, the tenant sent an email directed at the landlord's agents, "again spreading false information and damaging the reputation of the landlord and agents".

July 18, 2018, the tenant sent a threatening letter to the agents of the landlord concerning their membership with Charter Institute of Housing.

The landlord claims that the tenant has significantly interfered with and unreasonably disturbed the landlord and the landlord's agents by emailing on masse other parties allegation(s) of fraud and mistreatment by the landlord to the tenant. The tenant stated that ongoing issues have not being dealt with by the landlord and the tenant was seeking action from any of the landlord's agents to assist on the issue. The tenant stated that the emails were directed as a result of following proper protocols set out by BC Housing in seeking an appeal over the decisions made by the landlord's society regarding the tenancy issues. The landlord's agent, S.S. stated that the tenant attended a bbq looking for someone and "accosted" the Executive Director. It was noted by the landlord's agent that the tenant was talking "loudly" and "aggressively". The tenant stated that she was trying to bring the concerns to the landlord's attention which have continue to be unresolved. The landlord's agent, S.S. also stated that the tenant was taking pictures of

him and other staff without their consent. The landlord's agent, D.C. stated that the tenant's actions have the potential to damage the reputation of the society as it relies in part on donations to fund the society. The landlord stated that the tenant's behaviour has a cumulative effect regarding the tenant's emails over the 3 month period in damaging the landlord's reputation. The landlord also stated that the tenant sent a threatening letter to the agents of the landlord. The tenant disputed this stating the context of the emails is that of a complaint in "temperate language" to seek action by the landlord and not "slander". The tenant argues that "all contents true" referencing the emails. The tenant disputed the landlord's claims that during the "picnic" the landlord's agents were repeatedly "yelling at" her while she was trying to get the attention of the landlord's agents. The tenant repeated that all of the emails were always directed to the society members in all of her communications to request an appeal with the society.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the undisputed affirmed testimony that the landlord served the tenant with the one month notice dated July 25, 2018 via posting to the rental unit door on July 25, 2018.

In this case, the landlord claims that the tenant's actions referred to in the details of cause:

May 2018 the tenant sent unsolicited mass emails to the staff of a BC non-profit housing association and the royal Canadian Legion, "spreading false information to damage the reputation of the landlord and its' agents.

June 24, 2018, the tenant harassed several of the landlord's agents by approaching them in an aggressive manner about her judicial review and taking photographs of them without consent.

June 27, 2018, the tenant sent an email directed at the landlord's agents, "again spreading false information and damaging the reputation of the landlord and agents".

July 18, 2018, the tenant sent a threatening letter to the agents of the landlord concerning their membership with Charter Institute of Housing.

The landlord claims that these actions by the tenant has significantly interfered with and unreasonably disturbed the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord. The landlord claims that the actions of the tenant have potentially damaged the reputation of the landlord by the tenant claiming fraudulent behaviour by the landlord. The tenant has argued that the contact whether in person or by email has been a result of following established protocol set by BC Housing to appeal the landlord's decision over ongoing tenancy issues. I find that the landlord has failed to establish a claim that the

landlord was significantly interfered with or unreasonably disturbed. Although the landlord argued that each event has impacted the landlord, the landlord was unable to provide sufficient supporting evidence of the landlord's lawful right being jeopardized or that the tenant's actions have damaged the landlord's reputation. In reviewing the emails, I find that the main message imparted was that of an unsatisfied tenant who seeks action by the society. Each of the situations noted by the landlord refers to 4 individual events over a 3 month period. I find on a balance of probabilities that I prefer the evidence of the tenant over that of the landlord in that the landlord has not been unreasonably disturbed or seriously jeopardized the health, safety or lawful right of the landlord. The tenant's application to cancel the one month notice is granted.

Conclusion

The tenant's application is granted. The one month notice dated July 25, 2018 is set aside. The tenancy shall continue.

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: November 9, 2018

Residential Tenancy Branch