



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Action Property Management
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNC**

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to section 47

Both parties attended the hearing with the landlord represented by an agent SS, while the tenant SF appeared for herself. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant confirmed receipt of the One Month Notice dated November 17, 2022. Pursuant to section 88 of the Act the tenant is found to have been served with this notice in accordance with the Act.

The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

1. Is the One Month Notice valid and enforceable against the tenant? If so, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy commenced on February 25, 2022. Rent is \$800.00 per month due on the first of the month. The landlord holds a security deposit of \$400.00 in trust for the tenant. The tenant still occupies the rental unit.

The landlord stated that while they provided several reasons for wishing to end the tenancy for cause on the One Month Notice, they are relying on the ground that stated that the tenant or persons permitted on the property by the tenant unreasonably disturbed the landlord or other occupants of the rental property. The landlord provided several written warnings given to the tenant in evidence. The warnings are dated March 4 and March 7, 2022 and November 12 and November 17, 2022. The landlord also produced several emails in evidence from another occupant of the rental property complaining about noise from the tenant's rental unit. The emails are dated March 4, 2022, March 8, 2022, May 1, 2022, December 25, 2022, and March 29, 2023. The One Month Notice is also in evidence.

The tenant does not deny the noise but stated that it occurred because her ex-partner attends the residence and would not leave, leading them to have arguments. The tenant testified that she has called the police to have her ex-partner removed and applied for a restraining order to prevent him from attending the property. The tenant produced a business card from a member of the RCMP in evidence with writing on it that the tenant stated was the police file number for her complaint against her ex-partner. The tenant stated that her ex-partner is not on the tenancy agreement.

Analysis

RTB Rules of Procedure 6.6 states, "The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy." In this case, the landlord has the burden of proving the validity of the One Month Notice served on the tenant.

I have reviewed the email complaints from the other occupant of the rental property. I note that the complaints are generally about loud parties at the tenant's rental unit. The one exception is the December 25, 2022 complaint which appears to be about a loud fight consistent with a domestic disturbance. This complaint was made after the One Month Notice was served on the tenant. I find that most of the complaints were not

related to domestic disturbances but were instead about loud noise and partying. I further note that the tenant was given several warning letters and opportunities to correct the behaviour. While the noise complaints seemed to abate over the summer of 2022, they started reoccurring in November 2022. I find based on the emails from the other occupant of the rental property, that the occupant was unreasonably disturbed on multiple occasions by loud partying.

I have reviewed the One Month Notice and find that it meets the form and content requirements of section 52 of the Act. Section 55 of the Act requires me to issue an order of possession in favour of the landlord if the One Month Notice meets the form and content requirements of section 52 of the Act and if I dismiss the tenant's application. As section 55(1) of the Act is satisfied, the landlord is entitled to an order of possession effective April 30, 2023 at 1:00pm.

Conclusion

The landlord is granted an order of possession which will be effective April 30, 2023 at 1:00 pm. The order of possession must be served 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: April 22, 2023

Residential Tenancy Branch