Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- cancellation of a One Month Notice to End Tenancy For Cause (the "One Month Notice"), pursuant to section 47;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence on file.

The tenant's application was filed within the time period required under the Act.

Preliminary Issue(s) – Scope of Application / Amendment of Application / Adjournment Request

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants' application

with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

The tenants Application is amended to reflect the correct landlord's name as per the tenancy agreement.

At the outset of the hearing, the tenants requested an adjournment so they could provide additional evidence. The tenants stated they only received the landlord's evidence submissions 8 days before the hearing and wanted to submit additional evidence in response.

The tenants' adjournment request was denied as she received the landlord's evidence package at least 7 days prior to the hearing date which meets the time requirements for service of a respondents evidence package as per the Residential Tenancy Branch Rules of Procedure. I find 8 days was ample time for the tenants to submit any additional evidence in response to the landlord's submissions. The tenants could have submitted their evidence in advance of the hearing date and requested the evidence be permitted in the hearing.

Issues

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

While I have turned my mind to all of the documentary evidence and the testimony of the parties, only the relevant details of their respective submissions and arguments are reproduced here.

The rental unit is a park owned manufactured home. The tenancy began on February 1, 2021.

On March 16, 2023, the landlord served the tenants with a One Month Notice. The effective date of the One Month Notice was April 30, 2023. The One Month Notice was issued on the grounds that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

On behalf of the landlord, the property owner R.C. submits as follows:

- Since the beginning of the tenancy the landlord has received copious amounts of complaints from the tenant B.P., most of which were unwarranted and not related to the tenancy.
- The tenant B.P. has on multiple occasions prevented staff and technicians from entering the rental unit.
- On May 11, 2021 the tenant was issued a warning letter to cease and desist from sending +/- 20 emails to the landlord every week and to stop harassing and interfering with maintenance staff attempting to address her complaints.
- Since the May 2021 warning letter, complaints and interference with park management form the tenant have continued to.
- As an example, the tenant has complained that an emergency power shut off was not done correctly by the landlord; and, complained that bark mulch in the park boulevards was a fire hazard.
- In October 2021, the tenant was having a problem with her furnace. The tenant complained she was concerned about carbon dioxide poisoning if the furnace was not serviced more frequently than the annual service done by the landlord.
- The tenant requested the furnace be serviced every 3 months.
- The tenant refused portable heaters while the repair work was completed. The repair work was competed within 7 days.
- Due to the tenant's concerns of carbon dioxide, to prevent future maintenance, and be more cost efficient, the landlord had the furnace assessed by a technician for conversion to electric.
- In December 2021, the tenant was notified the landlord would be converting the heating in her unit to electric heating.
- The tenant maintained the landlord required her permission to do the conversion.
- On May 29, 2022, the tenant was notified that an electrician would be attending on April 4, 2022 to do the conversion work; however, the tenant denied entry.
- The tenant berated the technician, threatened him with a lawsuit and threatened the landlord she would go to the media to slander the landlord.
- In August 2022, the tenant refused the landlord's attempt to place a temporary fridge in her unit while parts to repair the tenant's fridge were on backorder for 1-3 months.
- The tenant again threatened to use social media to smear the landlord's name.
- In October 2022, while installing the fridge part, the landlord's technician was berated and threatened with a lawsuit if repairs were not done correctly.

- In November 2022 the tenant refused a manager entry to the unit and accused the manager of impersonating an agent.

The tenant B.P. testified as follows:

- All her e-mails were legitimate repair requests for items such as the fridge, sink etc.
- The landlord never provided any advance notice to the park residents of emergency shutoffs and there were five in total over a period of seven months.
- She acknowledged not allowing the landlord's agent S.B. entry to her unit as she did not know who she was at the time.
- She did not complain about carbon dioxide poisoning.
- She did request the furnace be repaired by a licensed gas fitter.
- She acknowledged refusing entry to the heating technician. She argues she did not ask for the electric heating and the gas furnace was working fine at that time.
- She argues there is no space for baseboard heating in her unit.
- She acknowledged threatening to go to the media in order to get things addressed.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

I find that the landlord has provided sufficient evidence to justify the issuance of the One Month Notice on the grounds of significant interference by the tenant of the park management. Although the tenant may have had some legitimate repair requests, I find the tenant's constant e-mail complaints to the landlord to be excessive and the tenant's berating of maintenance staff and denials of entry to be significant interference with the landlord rights and obligation to maintain the rental property. The landlord has the legal right to choose the type of heating in the rental unit. The landlord had a valid reason to change the heating to electric to be more cost efficient. It was not up to the tenant to deny entry to the technician as she felt there was not sufficient room in the unit for baseboard heating.

The tenants application to cancel the One Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed 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: August 02, 2023

Residential Tenancy Branch