

DECISION

Introduction

This hearing 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

This hearing also 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

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlord acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

I find that the Tenant acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenant in accordance with section 88 of the Act.

No evidence was received by the Residential Tenancy Branch from the Tenant. The Tenant confirmed no evidence was submitted.

Issues to be Decided

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

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on April 22, 2021, with a monthly rent of \$375.00, due on first day of the month, with a security deposit in the amount of \$187.50.

The Tenant was served with a One Month Notice of Cause on May 17, 2024, but the Landlord forgot to sign that One Month Notice of Cause, then the Landlord issued the corrected One Month Notice of Cause on June 10, 2024 (collectively, the One Month Notice). The One Month Notice indicated the following reason of cause, the tenant has caused extraordinary damage to the unit. The Tenant disputed the One Month Notice of Cause issued May 17, 2024, but not the corrected One Month Notice of Cause issued June 10, 2024.

The Landlord's position is that the Tenant has caused extensive damage to the rental unit on multiple occasions. The Landlord's agent MT (the Landlord's Agent) advised incidents occurred in 2022 when the Tenant flooded the bathroom several times. Furthermore, the Landlord's Agent advised when 1 flood was investigated it was determined the Tenant had allowed their pet rat to urinate all over the room. The Landlord's Agent advised in October 2022 it was also discovered that the Tenant had allowed the pet rat to breed and there were around 33 rats living in the unit and urinating all over the rental unit. Breach letters and the invoice for repairs were provided for the 2022 incidents.

The Tenant's position is that any damage was caused by fires that occurred on the property and not the Tenant's pet rat.

The Landlord's Agent argued in January 2024 another leak occurred in the Tenant's rental unit where the bathtub had overflowed and caused damage. The Landlord's Agent advised on April 8, 2024; a maintenance worker attended the rental unit after flooding was discovered a few days prior. The Landlord's Agent argued that when maintenance worker attended, they found the tub was filled with water, the drain was blocked and when the tub was snaked the snake broke due to a solid blockage. The Landlord's Agent argued the blockage was believed to be mortar or concrete and that the Tenant had poured down the drain as the Tenant was tiling the bathroom without the Landlord's permission. Afterwards the Landlord's Agent argued a plumber attended and confirmed a solid mortar or concrete was poured down the drain. In support of this

the plumber provided a report which stated “tired snaking again, encountered immediate residence, staff had advised that they broke their snake previously trying to snake the drain. Tried to push through blockage but blockage was too solid...Eventually broke snake attempting to unclog drain. Can confirm solid mortar or concrete substance has been poured down drain”. The plumber also provided photographs.

The Tenant’s position is that the only thing blocking the tub was a sock. Additionally, the Tenant argued the plumbers hired were not real plumbers and never did any work when they came to the rental unit.

The Landlord’s Agent argued another incident occurred April 29, 2024, where the Tenant was found to have tampered with the bathroom sink. The Landlord’s Agent argued the Tenant had approached staff about plumbing parts and when the Landlord’s staff attended the rental unit the bathroom sink was removed from the wall and there was a hole. An incident report was provided.

The Tenant’s position is that they smashed the sink to speed up the repair process. The Tenant argued the sink was not working, the Landlord had put a notice that the repair was going to occur, and the Tenant attempted to speed up the repair process by removing the sink. The Tenant testified they removed the sink by smashing it into pieces.

The Landlord’s Agent also argued the tenancy agreement requires monthly inspections which the Tenant has been denying and the Tenant has changed the rental unit lock. Copies of breach letters were provided to support this.

The Tenant’s position is that they did not change the lock and they only ever denied 1 inspection because the Landlord was attempting to do the inspection before they were authorized to do so.

The Tenant’s counsel DD (the Tenant’s Counsel) argued that the allegations from 2022 are not relevant as they occurred around 2 years ago. Additionally, the Tenant’s Counsel argued the missed inspections cannot form a basis for eviction as that reason of cause was not selected.

Analysis

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

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. While the corrected One Month Notice for Cause was issued June 10, 2024, and was not disputed by the Tenant, I find the June 10, 2024 One Month Notice of Cause was just a correction and not a new notice. As the Tenant disputed this notice on May 27, 2024, and since I have found that the One Month Notice was served to the Tenant on May 17, 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. I find that the Landlord has the burden to prove that they have sufficient grounds to issue the One Month Notice.

Based on the testimony and evidence of the Landlord, I find that the Landlord has established a sufficient ground to issue the One Month Notice.

The Tenant argued they were attempting to speed up the repair process by smashing the bathroom sink; however, I find that the attempt to help by the Tenant caused significant damage to the sink and bathroom. The incident report supports the Landlord's position. Furthermore, I accept the Landlord's position that the Tenant caused damage to the tub by pouring concrete or mortar down the tub. I accept the testimony of the Landlord as it was consistent, clear and corroborated by the report provided by the plumber. I do not accept the Tenant's position that only a sock was plugging the drain, I find the plumber report does not support that claim. The report stated "encountered immediate residence. Tried to push through blockage but blockage was too solid...Eventually broke snake attempting to unclog drain. Can confirm solid mortar or concrete substance has been poured down drain", which is not consistent with the Tenant's claim a sock was clogging the tub. Additionally, the Tenant provided no evidence to support their position. The Tenant argued the plumbers hired by the Landlord were not real plumbers; however, I find this to be speculative and no evidence was provided to support this allegation.

I accept the argument of the Tenant's Counsel that the incidents from 2022 should not form a basis for eviction as they occurred around 2 years ago. However, I find that they do support a pattern of behaviour by the Tenant. Regardless of the incidents that occurred in 2022, I find the Landlord has provided evidence to support that the Tenant has caused significant damage to the rental unit in April 2024.

For the above reasons, the Tenant's application for cancellation of One Month Notice under section 47 of the Act is dismissed, without leave to reapply. I grant the Landlord's application for an Order of Possession based on the One Month Notice.

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 complies with section 52 of the Act.

Therefore, I find that the Landlord is entitled to an Order of Possession. Given that both parties agreed to a move out date of 60 days, I grant an Order of Possession effective by 1:00 PM on September 30, 2024

Conclusion

I grant an Order of Possession to the Landlord **effective by 1:00 PM on September 30, 2024, after service of this Order on the Tenant**. Should the Tenant 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 One Month Notice under section 47 of the Act is dismissed, without leave to reapply.

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: August 1, 2024

Residential Tenancy Branch