



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, OPC, MNSD, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent and all three tenants.

The landlord confirmed at the outset of the hearing that she no longer needs to seek a monetary order for any outstanding rent. As such, I amend the landlord's Application to exclude the matter of unpaid rent.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause or for breaching an agreement with the landlord; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on May 14, 2010 for a 12 month and 15 day fixed term tenancy beginning on May 15, 2010 that converted to a month to month tenancy on June 1, 2011 for the current rent of \$850.00 due on the 1st of each month with a security deposit of \$400.00 paid;
- A copy of a 1 Month Notice to End Tenancy for Cause issued December 13, 2012 with an effective vacancy date of January 31, 2013 citing the tenants were

repeatedly late paying rent; that the tenants have allowed an unreasonable number of occupants in the unit; the tenants or a person permitted on the property by the tenants has significantly interfered with or unreasonably disturbed another occupant or the landlord; and the tenants have engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant or the landlord; and

- A copy of a rent receipt issued to the tenants for their payment of February 18, 2013 noted as for use and occupancy only and that “does not reinstate tenancy agreement”.

The landlord submits the 1 Month Notice was served on the tenants personally on December 13, 2102. Each of the tenants confirmed that none of them submitted an Application for Dispute Resolution seeking to cancel the 1 Month Notice.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant is repeatedly late paying rent;
- b) There are an unreasonable number of occupants in a rental unit;
- c) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; or
- d) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - i. Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

I accept the evidence before me that the tenants failed to file an Application for Dispute Resolution to dispute the Notice within the 10 days granted under Section 47(4) of the *Act*. Based on the foregoing, I find the tenants are conclusively presumed under Section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

I also note that while the landlord did accept rent after the 1 Month Notice to End Tenancy was issued they have provided receipts that they accept the money as payment for use and occupancy only and did not wish to reinstate the tenancy.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application. I order the landlord may deduct this amount from the security deposit of \$400.00 held in satisfaction of this claim.

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: March 08, 2013

Residential Tenancy Branch

