



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS COMMUNITY SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 17, 2014, by the Landlords to obtain an Order of Possession for cause.

The hearing was conducted by teleconference and was attended by the Landlord. The Landlord provided affirmed testimony that the Tenant was personally served with copies of the Landlords' application for dispute resolution and Notice of dispute resolution hearing on October 18, 2014. Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding in accordance with section 89 of the Act. Accordingly, I proceeded in the Tenants' absence.

Issue(s) to be Decided

1. Have the Landlords proven entitlement to an Order of Possession?

Background and Evidence

The Landlord submitted that the Tenant entered into a tenancy that began on March 17, 2010. He stated that the Landlord provides housing and low barrier services for hard to house tenants. The Landlord stated that they work closely with several mental health support teams to assist tenants, who may be suffering from mental health issues, in order to keep tenants housed.

The Landlord testified that they suspect the Tenant is suffering from mental health issues as the Tenant has been collecting useless materials and storing too many articles in his unit. The Landlord argued that they can no longer open the Tenant's door without the use of full body weight as the materials are piled waist high throughout the entire unit.

The Landlord submitted that the Tenant also has a pet rat which they suspect has been mating with rodents in the area. They suspect that the Tenant's unit is infested with rats,

dead and alive, based on the odours that are coming from inside the unit. The Landlord testified that the current state of the Tenant's unit is a significant health risk to the Tenant and all other occupants of the building.

The Landlord argued that despite their efforts they could not convince the Tenant to move to a new unit to give him a fresh start. So on August 22, 2014, they issued the Tenant a 1 Month Notice to end tenancy for cause. The Landlord stated that it is their intention to evict the Tenant from his current rental unit and have him go to a shelter for a few days. This will then allow the Landlord access to the Tenant's unit to clean up, throw out debris, and move any possessions that are salvageable to a new smaller unit for the Tenant to occupy.

The Landlord submitted documentary evidence which included, among other things, copies of: the Landlord's written statement; a 1 Month Notice to end tenancy issued August 22, 2014; the tenancy agreement; a warning letter issued to the Tenant; and several pages of the Landlord's incident log.

The Landlord submitted that the 1 Month Notice was posted to the Tenant's door on August 22, 2014 and was issued pursuant to Section 47(1) of the Act for the following reasons:

- Tenant or a person permitted on the property by the tenant has:
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - Put the Landlord's property at significant risk
- Tenant has engaged in illegal activity that has or is likely to
 - Damage the landlord's property
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

Upon review of the 1 Month Notice to End Tenancy issued August 22, 2014, I find the Notice to be completed in accordance with the requirements of the Act and I find that it

was served upon the Tenant in a manner that complies with the Act. The effective date of the Notice was **September 30, 2014**.

Section 47(4) of the Act stipulates that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

In this case the Tenant would have had to file his application for dispute no later than September 1, 2014. At the time the Landlords filed their application for an Order of Possession on October 17, 2014, the Tenant had not made application to dispute the 1 Month Notice.

Section 47(5) of the Act stipulates that if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit by that date. Accordingly, I grant the Landlord's application and award them an Order of Possession.

Conclusion

The Landlords have been granted an Order of Possession effective **2 Days upon Service** to the Tenant. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

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 27, 2014

Residential Tenancy Branch

