



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bristol Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPB, FF

Introduction

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

The hearing was conducted via teleconference and was attended by two agents and a witness for the landlord and the male tenant.

The landlord had applied for an order of possession based on a 1 Month Notice to End Tenancy for Cause and a breached of an agreement. I explained at the start of the hearing that seeking an order of possession based on a breach of a tenancy agreement would have required the landlord to issue a 1 Month Notice to End tenancy for Cause. As such, seeking the order of possession based on a breach of an agreement was redundant. I therefore amend the landlord's Application to exclude that request.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties on October 26, 2013 for a 1 year fixed term tenancy beginning on November 1, 2013 that converted to a month to month tenancy on November 1, 2014 for a monthly rent of \$850.00 with a security deposit of \$425.00 required; and
- A copy of a 1 Month Notice to End Tenancy for Cause issued on March 18, 2015 with an effective vacancy date of April 30, 2015 citing the tenants or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord; the tenant has 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; the tenants have breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so; and a pet damage deposit was not paid within 30 days as required by the tenancy agreement.

Both of the landlord's agents testified that they had posted the 1 Month Notice to the rental unit door on March 18, 2015. The tenant confirmed that they had received the Notice as per the landlord's testimony. The tenant also confirmed that they did not file an Application for Dispute resolution seeking to dispute the notice and have it cancelled.

I note that the second page of the 1 Month Notice to End Tenancy for Cause provides clear instruction to tenants who receive such a notice on the process if they chose to dispute the notice. It states that the tenant has the right to dispute the Notice within 10 days of receiving it by filing an Application for Dispute Resolution with the Residential Tenancy Branch.

The information goes on to say that if the tenant does not file an Application within 10 days the tenant will be presumed to have accepted the end of the tenancy and must move out of the rental unit. It also notes that if the tenant fails to file such an Application the landlord may apply for an order of possession that is enforceable through the courts.

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 does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- b) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- c) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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
- d) The tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

Section 47(4) allows a tenant who receives a notice under Section 47 to apply to dispute the notice within 10 days of receiving it. Section 47(5) states that if a tenant does not file an Application for Dispute Resolution seeking to cancel such a notice the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

Based on the tenant's testimony I find the tenants did not file an Application for Dispute Resolution within 10 days of receiving the Notice. As such, I find the tenants are

conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an order of possession.

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. Pursuant to Section 72(2)(b) I order the landlord may deduct this amount from the security deposit held.

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: May 13, 2015

Residential Tenancy Branch

