



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for Cause pursuant to section 55 and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:14 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's representative ("the landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord provided sworn, undisputed testimony that she posted the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on the tenant's door on May 16, 2016. The landlord submitted a copy of the signed proof of service document indicating the notice was served at 12.48 p.m. on that May 16, 2016. Based on the landlord's testimony, the evidence submitted and pursuant to section 88 of the *Act*, I find the tenant was duly served with the 1 Month Notice on May 19, 2016, 3 days after its posting.

The landlord testified that she served the tenant with the dispute resolution hearing package, including a copy of the application for dispute resolution and the Notice of Hearing, on June 22, 2016 by registered mail. She provided a Canada Post receipt and a tracking number to support her testimony. Based on the landlord's testimony and the evidence provided, I find that the Application for Dispute Resolution and Notice of Hearing and pursuant to section 89 of the *Act*, I find the tenant was deemed served with the Notice of Hearing and dispute resolution package on June 27, 2016, 5 days after its registered mailing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

This tenancy began on October 4, 2014 and was scheduled as a one year fixed term. After the first one year fixed term, the landlord and tenant agreed to a second one year fixed term. The rental amount of \$700.00 is payable on the first of each month and the landlord continues to hold a \$347.50 security deposit from the outset of the tenancy.

The landlord entered into written evidence a copy of the May 16, 2016 1 Month Notice to End Tenancy for Cause. In that Notice, requiring the tenant to end this tenancy by June 16, 2016, the landlord cited the following reasons for the issuance of the Notice:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *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:

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord...*

The landlord submitted a copy of a written warning dated September 14, 2015 from the landlord to the tenant to advise that the landlord had received several noise complaints and requesting the tenant review the by-laws for the rental unit and his lease agreement to ensure he complies with all noise requirements. The landlord also submitted 6 noise complaints sent to the landlord regarding the tenant as well as some internal correspondence about those complaints. The landlord also submitted a copy of memos/logs from the landlord's staff regarding complaints about the tenant. The landlord submitted a May 16, 2016 indicating that the landlord has received a third formal written complaint regarding noise from the tenant's rental unit and therefore a 1 Month Notice to End Tenancy is attached.

Analysis

The 5 noise complaint materials submitted by the landlord for this hearing include,

1. A noise complaint dated September 14, 2015;
2. A noise complaint dated January 23, 2016;
3. A noise complaint dated January 25, 2016;
4. A noise complaint dated January 27, 2016;
5. A noise complaint dated May 16, 2016.

All of the complaints relate to noise disturbance at very late night and early morning hours as well as problems with smell and individuals from the rental unit acting inappropriately, including urinating in the hallway. The landlord's logs reflect ongoing staff concerns by the condition of the outside of the rental unit as well as the sound and smells coming from the unit. The landlord has taken intermediate steps in warning the tenant about possible consequences of the partying and noise from the tenant's rental unit. The landlord appropriately issued a 1 Month Notice to End Tenancy.

Based on the landlord's undisputed evidence at this hearing, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant has not made a successful application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. The tenant has failed to attend in response to the landlord's application. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by the corrected effective date of the 1 Month Notice: June 30, 2016. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I allow the landlord to reduce the tenant's security deposit from \$347.50 to \$247.50 to recover the filing fee paid by the landlord for this application.

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 9, 2016

Residential Tenancy Branch