



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC (LAT LRE O OLC)

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47; as well as an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; authorization to change the locks to the rental unit pursuant to section 70; and an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Both parties confirmed receipt of the other's evidentiary submissions for this hearing.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to an order with respect to locks and the landlord's entry into the rental unit?

Background and Evidence

This tenancy began on May 1, 2015 as a month to month tenancy (written agreement). The rental amount of \$960.00 is payable on the first of each month. The landlords testified that they continue to retain the tenant's \$480.00 security deposit paid at the outset of the tenancy (May 24, 2015) as well as a \$200.00 pet damage deposit paid on May 5, 2015.

The tenant sought to cancel a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") issued by the landlord on June 19, 2016 on the following grounds,

- Tenant is repeatedly late paying rent.
- 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 caused extraordinary damage to the unit or property.
- Tenant has not done required repairs of damage to the unit.
- Tenant has breached a material term of the tenancy and did not correct breach within a reasonable time after being warned.

The landlord testified that the tenant paid rent late on several recent rent due dates including; the landlord testified that March, April, May, June and July 2016 rent as well as several earlier dates (including October, November and December 2015). In her testimony, the tenant stated that she had paid her rent late three or more times but that she believed that she had only paid her rent late five times overall.

Analysis

When a tenant applies to cancel a notice to end tenancy, the burden shifts to the landlord to justify the notice issued. The tenant entered into written evidence a copy of the 1 Month Notice to End Tenancy for Cause. In that Notice, requiring the tenant to end this tenancy by a corrected effective date of July 31, 2016, the landlord cited seven reasons for the issuance of the Notice and the end of this tenancy.

Section 26(1) of the *Act* establishes that "a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent." With respect to the landlord's reliance on the ground that the tenant is repeatedly late paying rent, I accept the landlord's undisputed evidence that the tenant failed to pay rent in full on time on 3 or more recent occasions.

I find that the landlord has been successful in justifying the notice to end tenancy. I dismiss the tenants' application to cancel the 1 Month Notice. Based on the evidence submitted by the landlord for 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, specifically late payment of rent. Given my findings, I need not consider the other grounds for the end of the tenancy.

I dismiss the tenant's application to cancel the notice to end tenancy. Therefore, pursuant to section 55(1) of the *Act*, I find that the landlord is entitled to an Order of

Possession. The tenant's application to cancel the Notice to End Tenancy is dismissed. I find that the landlord is entitled to a 2 day Order of Possession.

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Given my decision that the tenancy will end, the tenant's application regarding compliance with the Act, changing the locks and limiting the landlord's access to the rental unit are dismissed. I note that the tenant presented no evidence with respect to this portion of her application.

Conclusion

The tenant's application is dismissed.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 11, 2016

Residential Tenancy Branch