



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal Lepage Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Landlords: OPC, OPB, ET, FF
Occupant: CNC

Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlords sought an order of possession. The occupant sought to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by two agents for the landlord; an agent for the tenant; the occupant and her support assistant.

At the outset of the hearing, I clarified for the landlords that while their Application for Dispute Resolution included seeking an order of possession based on a 1 Month Notice to End Tenancy for Cause and an early end to the tenancy without notice I could not proceed on both issues.

I clarified that if the landlords wanted to pursue ending the tenancy by a cross Application to the occupant's Application seeking to cancel a specific notice to end the tenancy we would proceed with this hearing. However, if the landlord wanted to pursue ending the tenancy without benefit of the 1 Month Notice I would adjourn that hearing and it would be dealt with at a later date.

The landlord's chose to proceed with their Application seeking to end the tenancy based on the 1 Month Notice to End Tenancy for Cause. I amend the landlord's Application to exclude seeking to end the tenancy early and without notice.

In their written submissions the landlords identified that the person who submitted the Application for Dispute Resolution seeking to cancel the 1 Month Notice to End Tenancy for Cause was, in fact, not the tenant. The tenancy agreement submitted into evidence shows that the agreement is between the landlords and Dawn to Dawn and not the occupant.

The tenant's agent submitted that the organization that is named as the tenant in the tenancy agreement rents rental units from landlords to house their clients and they provide subsidies on behalf of the tenant to the landlord. The tenant confirmed that her income assistance shelter portion is paid by the ministry directly to Dawn to Dawn and that they pay the landlord the rent.

The parties also confirmed that the occupant has changed the locks to the rental unit without the landlord's consent. The occupant agreed to provide the landlord with a copy of the keys as soon as possible.

The landlord also noted that they have attempted to enter the rental unit but they could not access the unit and have posted a notice to enter the unit again. The occupant agreed the landlord could enter the unit in accordance with their most recent notice.

Issue(s) to be Decided

The issues to be decided are whether the occupant is entitled to have the 1 Month Notice to End Tenancy for Cause cancelled, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

It must also be decided are whether the landlord is entitled to an order of possession for cause and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the landlord's agents and the agent for Dawn to Dawn on April 17, 2015 for a 1 year fixed term tenancy beginning on April 27, 2015 for a monthly rent of \$875.00 due on the 1st of each month with a security deposit of \$437.50 paid.

Both the landlord and the occupant submitted a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on July 7, 2016 with an effective vacancy date of August 31, 2016 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord submitted that they have received complaints regarding the occupant's behaviour on 3 separate occasions – two on July 6, 2016 and one on June 24, 2016. The tenant's agent testified that the tenant (Dawn to Dawn) had no intention to dispute the Notice.

The occupant testified that she had done nothing wrong and that it was her right to have a home. She also stated that she has had people coming into her rental unit illegally.

Analysis

Based on the submissions of all parties, the landlord's agents; the tenant's agent; and the occupant, I find that the occupant has no standing in this tenancy agreement.

I make this finding for the following reasons:

- The tenancy agreement does not identify the occupant as a tenant;
- The tenant confirmed that she has never paid rent directly to the landlord or the landlord's agents; and
- The tenant confirmed that she pays her portion of rent to the tenant (Dawn to Dawn) and that the tenant then pays the landlord the rent.

In addition, and based on the tenant's agent's submission that they did not intend to seek to cancel the 1 Month Notice to End Tenancy I find the occupant's Application for Dispute Resolution cannot be considered. I therefore dismiss the occupant's Application for Dispute Resolution in its entirety.

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if 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.

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.

As I have found the occupant has no standing to submit an Application for Dispute Resolution seeking to cancel the 1 Month Notice to End Tenancy for Cause on behalf of the tenant I find that the tenant has not submitted an Application to cancel the Notice within 10 days of receiving the notice. As such, I find the tenant is conclusively presumed to have accepted the end of the tenancy and all occupants must vacate the rental unit in accordance with the 1 Month Notice issued on July 7, 2016.

I also note that because the occupant has no standing any orders issued as a result of this decision are made solely against the tenant (Dawn to Dawn) and not the occupant. I find the relationship between the tenant and the occupant does not fall within the jurisdiction of the *Act*.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails 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 and grant a monetary order in the amount of **\$100.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 07, 2016

Residential Tenancy Branch