



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M. WARNER CONTRACTING LTD.
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Landlord's Application: OPC, MNDC, FF
Tenant's Application: CNR, MNDC

Introduction

This hearing was scheduled to consider cross-applications pursuant to the *Residential Tenancy Act* (the "Act"). The tenants are seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") issued November 9, 2016 (the "Tenants' Application").

The landlord is seeking an order of possession for cause pursuant to a One Month Notice To End Tenancy for Cause issued November 27, 2016 (the "One Month Notice"); and recovery of the filing fee paid for this application from the tenants (the "Landlord's Application").

Both the landlord and the landlord's agent (collectively the "landlord") and both tenants appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord and tenants were given a full opportunity to be heard, to present sworn testimony and make submissions. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matters

The tenants misspelled the corporate name of the landlord in their application. The tenants' application is amended to include the proper spelling. The landlord confirmed the proper spelling of the corporate name which is shown in the style of cause.

The landlord and tenants misspelled the last name of Tenant K.S. in their applications. The landlord and tenants' applications are amended to include the proper spelling. Tenant K.S. confirmed the proper spelling of her last name which is shown in the style of cause.

Rule 2.3 of the Rules of Procedure states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, he or she may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

Upon review of the tenants' application I have determined that I will not deal with all the dispute issues the tenants have placed on their application. For disputes to be combined on an application they must be related. Not all the claims on this application are sufficiently related to the main issue regarding the notice to end tenancy.

Accordingly, I dismiss the balance of the tenants' application that is unrelated to the notice to end tenancy with leave to reapply. At the start of the hearing, the landlord confirmed that the tenants paid the rent that was due in the landlord's 10 Day Notice within five days of service. Accordingly, the tenants' application seeking to cancel the landlord's 10 Day Notice dated November 9, 2016 is dismissed.

Upon review of the landlord's application I have determined that I will not deal with all the dispute issues the landlord has placed on their application. Not all the claims on the landlord's application are sufficiently related to the main issue relating to the notice to end tenancy. Therefore, I will only deal with the landlord's request for an order of possession for cause and recovery of the filing fee from the tenant. I dismiss the balance of the landlord's application with leave to reapply.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession for cause?
- Is the landlord entitled to recovery of the filing fee paid for this application from the tenant?

Background and Analysis

The undisputed evidence of the landlord and tenants established that a fixed term tenancy started on June 7, 2016 which was to end December 31, 2016. Thereafter, the tenancy was to continue as a month to month tenancy.

The landlord and the tenants agree that a One Month Notice was served on the tenants indicating that the tenants were required to vacate the rental unit on December 31, 2016. The landlord testified that the One Month Notice was left in the tenants' mail box

on November 27, 2016. The tenant confirmed receipt of the One Month Notice on November 27, 2016.

The reasons stated on the One Month Notice are that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful interest of another occupant or the landlord.

Pursuant to section 47(4) of the *Act*, a tenant who has received a One Month Notice may dispute the notice by making an application for dispute resolution within 10 days after the date the tenant received the notice.

Pursuant to section 47(5) of the *Act*, if a tenant does not make an application for dispute resolution within the 10 days after receiving the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

The tenants did not make an application for dispute resolution to dispute the One Month Notice. Therefore, I find that the tenants are conclusively presumed to have accepted that the tenancy ended on December 31, 2016 and that they were required to vacate the rental unit by that date.

I find that the One Month Notice complies with s.52 of the *Act* and that the landlord served the One Month Notice in accordance with the *Act*. Therefore, I find that the landlord is entitled to an order of possession.

As the landlord's application was successful, I find that the landlord is entitled to recovery of the \$100.00 filing fee from the tenants.

Conclusion

The landlord is granted a monetary order in the amount of \$100.00 which must be served on the tenant(s) as soon as possible. Should the tenant(s) fail to comply with this monetary order, it may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

I allow the landlord's application and pursuant to section 55 of the *Act*, 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.

As described above, the balance of the landlord's application is dismissed with leave to reapply.

As described above, the tenants' application to cancel the 10 Day Notice is dismissed without leave and the balance of their application is dismissed with leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: January 10, 2017

Residential Tenancy Branch