



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MARSON ENTERPRISES 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* ("Act") for:

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 12 minutes. The landlord's agent, LDB ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the manager of the rental building apartments and that he had authority to speak on behalf of the landlord company named in this application as an agent at this hearing.

The landlord confirmed that the tenant was personally served with the landlord's application for dispute resolution hearing package on January 25, 2017. In accordance with section 89 of the *Act*, I find that the tenant was personally served with the landlord's application on January 25, 2017.

The landlord stated that he filed 35 pages of written evidence at the Residential Tenancy Branch when he filed the landlord's application. I did not receive the evidence. I only received a copy of the written tenancy agreement and two 1 Month Notices to End Tenancy for Cause. I did not find it necessary for the landlord to send me the additional written evidence after the hearing, as I made my decision based on the landlord's undisputed verbal testimony at this hearing and the above documents that I had received.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to correct the spelling of the tenant's first name. I find no prejudice to the tenant in granting the

landlord's amendment request. The correct spelling is now reflected in the style of cause for this decision and the resulting order of possession.

The landlord confirmed that the tenant was personally served with the 1 Month Notice to End Tenancy for Cause, dated December 28, 2016 ("1 Month Notice") on the same date. He said that he witnessed his son serving the notice to the tenant. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord's 1 Month Notice on December 28, 2016.

Issues 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

The landlord testified regarding the following facts. This month-to-month tenancy began on May 1, 2016. Monthly rent in the amount of \$660.00 is payable on the first day of each month. A security deposit of \$330.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant provided verbal notice on December 27, 2016 and January 15, 2017, to the landlord that she would vacate the rental unit. No written notice to vacate was provided by the tenant. The landlord has not seen the tenant since January 29, 2016 and all of her possessions had been previously removed from the rental unit by the time that the landlord inspected it on February 6, 2017, after providing written notice of the inspection to the tenant. The landlord has not received the rental unit keys back from the tenant and has not taken back possession of the rental unit or changed the locks. A copy of the written tenancy agreement was provided for this hearing.

The landlord's 1 Month Notice indicates an effective move-out date of January 31, 2017. The landlord issued the notice for the following reasons:

- *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.*

The landlord seeks an order of possession based on the 1 Month Notice. He said that the landlord has not yet taken back possession of the unit. The landlord said that the 1 Month Notice was issued because the tenant had parties in her rental unit in December

2016, which resulted in disturbance to other tenants in the same rental building. He claimed that it also caused the landlord to call the police who attended at the rental unit for the above disturbances. The landlord said that after the 1 Month Notice was issued to the tenant, she threatened to stab a female occupant in the laundry room of the rental building and then threatened to beat up another 82-year-old female occupant who then wanted to move from the rental building in fear of the tenant.

The landlord is also seeking to recover the \$100.00 filing fee paid for this application from the tenant.

Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant significantly interfered with and unreasonably disturbed other occupants in the same rental building. I accept the landlord's undisputed evidence that the tenant had loud, noisy parties in her rental unit, which caused disturbance to other occupants in the rental building and which caused the police to attend at the rental unit on multiple occasions in December 2016. I accept the landlord's undisputed evidence that after serving the 1 Month Notice to the tenant, she threatened the life of two other occupants in the rental building in January 2017.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reason.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on January 31, 2017, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by January 31, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

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

Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order,

this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to deduct \$100.00 from the tenant's security deposit in full satisfaction of the monetary award for the filing fee. The remainder of the tenant's security deposit in the amount of \$230.00 is to be dealt with in accordance with section 38 of the *Act*.

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: February 16, 2017

Residential Tenancy Branch