



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was scheduled to consider the tenants' application for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant DE confirmed he represented both co-tenants (the "tenant"). The landlord SP confirmed she represented the corporate landlord (the "landlord").

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 1 Month Notice, the tenants' application for dispute resolution or either party's evidentiary materials. The parties confirmed receipt of one another's materials. In accordance with sections 88 and 89 of the *Act*, I find that the parties were duly served with copies of the landlord's 10 Day Notice, the tenants' application and their respective evidence.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

The parties agreed on the following facts. This month to month tenancy began in July, 2007. The tenants are responsible for rent in the amount of \$770.00 monthly. A security deposit of \$407.50 and pet damage deposit of \$407.50 was collected at the start of the tenancy and is still held by the landlord.

The tenants have been repeatedly late in making rent payment. The landlord testified that during the past six months the tenant has paid rent late for five of those months. The landlord said that the tenants have been warned repeatedly and submitted into written evidence copies of letters issued to the tenants during the tenancy. The tenant agreed that he has been late in making rent payments. He testified that because he is on income assistance he finds it difficult to pay the rent in a timely manner and also pay for necessities.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the matter at hand the landlord must demonstrate that the tenants have been repeatedly late paying rent. Residential Tenancy Policy Guideline 38 provides that three late payments are the minimum number to justify a notice to end tenancy. I accept the parties' evidence that the tenant has been late paying rent for the majority of the past year. I find that the tenants have been repeatedly late paying rent. Accordingly, I find that the landlord has shown on a balance that there is cause to end this tenancy and dismiss the tenants' application.

Section 55(1) of the *Act* reads as follows:

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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. The notice provides the reasons for ending the tenancy, the repeated late payment of rent.

As I have dismissed the tenant's application to dispute the 1 Month Notice, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* effective, March 31, 2017 the effective date of the 1 Month Notice.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant(s)**. Should the tenants or any occupant 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.

The tenants' application is dismissed without leave to reapply.

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: March 21, 2017

Residential Tenancy Branch