



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNSD, LRE, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated April 6, 2017 ("1 Month Notice"), pursuant to section 47;
- authorization to obtain a return of the security deposit, pursuant to section 38;
- an order to suspend or set conditions on the landlord's right to enter the rental unit, pursuant to section 70; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord's three agents (collectively "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. All three agents confirmed that they had authority to speak on behalf of the landlord company named in this application at this hearing.

The landlord confirmed that the tenant's application for dispute resolution hearing package was received. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

The landlord confirmed that the tenant was served with the landlord's written evidence package on May 1, 2017, in person and by registered mail. The landlord provided a Canada Post receipt and tracking number with its written evidence package. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's written evidence package on May 6, 2017, five days after its registered mailing.

The landlord confirmed that the tenant was personally served with the 1 Month Notice on April 6, 2017. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord's 1 Month Notice on April 6, 2017.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any appearance by the tenant, I order her application dismissed without leave to reapply, with the exception of the application for the security deposit.

The tenant's application to recover the security deposit is premature and dismissed with leave to reapply. The landlord confirmed at the hearing that it would be willing to return the security deposit to the tenant, provided that the requirements of the *Act* were met.

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 1 Month Notice, the landlord is entitled to an order of possession, provided that the notice meets the requirements of section 52 of the *Act*.

Issue to be Decided

Is the landlord entitled to an order of possession for cause?

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on August 1, 2016 for a fixed term of six months after which it became a month-to-month tenancy. Monthly rent in the amount of \$975.00 is payable on the first day of each month. A security deposit of \$487.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit.

The landlord's 1 Month Notice indicates an effective move-out date of May 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;*
- *put the landlord's property at significant risk.*
- *Tenant has engaged in illegal activity that has, or is likely to:*
 - *jeopardize a lawful right or interest of another occupant or the landlord.*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord seeks an order of possession based on the 1 Month Notice. The landlord said that the 1 Month Notice was issued for a number of reasons. The landlord maintained that the tenant failed to properly prepare for a number of pest control treatments throughout her tenancy, from September 2016 to April 2017. The landlord provided copies of notices issued to the tenant for upcoming pest control treatments and the requirement to prepare for them in order for the pest control agents to perform their jobs effectively. The landlord also provided copies of pest control agent reports of attempts to complete pest control treatments in the tenant's rental unit and the tenant's failure to properly prepare for them. The landlord provided copies of violation letters to the tenant for failure to properly prepare for the pest control treatments as well as warnings that 1 Month Notices could be issued for the tenant's failures.

The landlord provided a copy of a pest control agent report from "LY" on April 6, 2017, indicating that he "had to call RCMP due to tenant put her hands on me and dragged me in the bedroom." The landlord confirmed receiving a report about this incident from LY, verified that the RCMP were called to the tenant's rental unit that day, and the pest control agent quit his job the next day because he was "so shaken up." There is also a letter, dated April 6, 2017, from the landlord to the tenant indicating that the landlord was issuing a 1 Month Notice to her because of this latest physical incident against LY and the tenant's previous failures to properly prepare for pest control treatments.

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 the landlord and the pest control agent of the landlord. I accept the landlord's undisputed evidence that the tenant did not properly prepare for pest control treatments throughout this tenancy from September 2016 to April 2017 and the tenant physically interfered with the landlord's pest control agent on April 6, 2017, so the police had to be called and the pest control agent quit his job the next day.

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

The tenant filed an application on April 11, 2017, pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice on April 6, 2017. However, the tenant failed to show up for this hearing in order to present her submissions. In accordance with section 47(5), the failure of the tenant to show up for the hearing, leads to the end of this tenancy on May 31, 2017, the effective date on the 1 Month Notice. In this case, this requires the tenant and anyone on the premises to vacate the premises by May 31, 2017. As this has not occurred, I find that the landlord is entitled to an Order of Possession effective at 1:00 p.m. on May 31, 2017, pursuant to section 55 of the *Act*. I find that the landlord's 1 Month Notice meets the requirements of section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on May 31, 2017**. 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.

The tenant's application to obtain a return of the security deposit is premature and dismissed with leave to reapply.

The remainder of the tenant's 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: May 17, 2017

Residential Tenancy Branch