



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, O

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 May 16, 2017 ("1 Month Notice"), pursuant to section 47; and
- other unspecified remedies.

The respondent landlord's three agents (collectively "landlord") appeared at the date and time set for the hearing of this matter. All three agents confirmed that they were the property manager, building manager and property manager's assistant for the landlord company named in this application and that they had authority to speak on its behalf at this hearing. The applicant tenant did not appear at this hearing, although I waited until 10:01 a.m. to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("application"). 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 July 6, 2017, by way of registered mail. The landlord provided a Canada Post receipt and tracking number with its written evidence. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's written evidence package on July 11, 2017, five days after its registered mailing.

The landlord testified that the tenant was personally served with the landlord's 1 Month Notice on May 16, 2017. The notice indicates an effective move-out date of June 30, 2017. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was served with the landlord's 1 Month Notice on May 16, 2017. I also note that the tenant applied to cancel this 1 Month Notice on May 31, 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 evidence or submissions from the tenant, I order the tenant's entire Application dismissed without leave to reapply.

Issues to be Decided

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

Background

The landlord testified regarding the following facts. This fixed term tenancy began on March 1, 2016. Monthly rent in the amount of \$674.00 is payable on the first day of each month. A security deposit of \$325.00 was paid by the tenant and the landlord continues to retain this deposit. Both parties signed a written tenancy agreement but a copy was not provided for this hearing.

The landlord provided a copy of the 1 Month Notice to the Residential Tenancy Branch on July 19, 2017, after the hearing at my direction, as the tenant did not supply a copy of the notice with her application. I received the 1 Month Notice from the landlord on July 19, 2017 and considered it in my decision.

The landlord issued the 1 Month 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;*
- *Tenant has not done required repairs of damage to the unit/site.*

Analysis

According to subsection 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. The tenant received the 1 Month Notice on May 16, 2017, and filed her application to dispute it on May 31, 2017. Therefore, she is not within the time limit under the *Act*.

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for a valid reason and proved that the tenant significantly interfered and unreasonably disturbed other occupants in the rental building.

I accept the testimony of the landlord who confirmed that the tenant would yell and scream at her boyfriend in the rental unit, that she would bang items around her rental unit, that the police were recently called on July 11, 2017 because the tenant was screaming and yelling in the

parking lot at the rental property, and that other occupants in the rental building were afraid of the tenant. The landlord provided letters and emails from other occupants confirming that they were afraid of the tenant and this behaviour was ongoing from May 2016 to July 2017.

As I have found that one of the reasons indicated on the landlord's 1 Month Notice is valid, I do not need to consider the other reasons on the notice.

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 to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Based on my decision to dismiss the tenant's Application and my finding that the landlord's 1 Month Notice complies with section 52 of the *Act*, I find that this tenancy ended on July 31, 2017 as the landlord confirmed during the hearing that this date was appropriate for an order of possession. Accordingly, I find that the landlord is entitled to an Order of Possession effective at 1:00 p.m. on July 31, 2017.

Conclusion

I grant an Order of Possession to the landlord effective at 1:00 p.m. on July 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 entire 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: July 27, 2017

Residential Tenancy Branch