



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPC MNSD FF

Introduction

This hearing was convened in response to an application by the landlord under the *Residential Tenancy Act* (the Act) for an Order of Possession, to keep the security deposit and recover the filing fee. The hearing was conducted by conference call.

The landlord attended the hearing. Although the tenants were personally served in accordance with Section 89 of the Act with the application for dispute resolution and Notice of Hearing on June 30, 2017 the tenant did not call into the conference and did not participate in the hearing. The landlord testified they provided the tenants with all of the document evidence provided to this proceeding consisting of the Notice to End. The hearing was attended by 3 community support professionals associated with one of the tenants. The 3 attendees explained that both tenants are intellectually or mentally disabled and that as a group they complement the tenant's support system. Neither of the support professionals stood as agents for the tenants, or in their stead. However, in this matter I also heard from the support professionals in their capacity to assist in this dispute.

Issues(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to keep the security deposit?

Is the landlord entitled to the monetary amount claimed?

Background and Evidence

This tenancy began in 2012. On June 09, 2017 the tenant was personally served with a One month Notice to End Tenancy for Cause pursuant to Section 47(1)(d)(ii)&(iii), with

an effective date of July 31, 2017. The landlord testified they personally served the tenants with the Notice to End on June 09, 2017. The tenant did not file an application to dispute the Notice to End Tenancy. The tenant still resides in the unit.

The landlord testified that the tenant reported they had bed bugs in their rental unit. The landlord immediately employed a pest control professional whom attended the unit on May 26, 2017 and confirmed an infestation of bed bugs. The technician reported that due to the abundance of belongings in the rental unit they could not treat for the pest. The landlord gave the tenant a checklist instructing they attend to removing the excess belongings so as the pest control technician could access the required areas to be treated. The landlord testified they repeatedly attempted to obtain the tenant's cooperation toward removal of the excess of items in the unit so as to accommodate a remedy for the required treatments, for the sake of the tenant and the other occupants of the residential building, but to no avail. The landlord testified they had little choice but to seek an end to the tenancy as their responsibility is not solely for the respondent but extends to all of their other tenants.

The attendees for the tenants explained the tenants are mentally challenged and only recently have grasped the gravity of the situation vis a vis the bed bug infestation and the landlord's compelling need to attend to it. The attendees for the tenants testified they will remain involved with the tenants moving forward.

The landlord did not elaborate on their application to retain the security deposit.

Analysis

Section 47 of the Act provides that if a tenant does not apply to dispute a one Month Notice to End Tenancy for cause within 10 days after receiving it, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice and must vacate the rental unit by that date. The Notice to End Tenancy requires the tenant to vacate the rental unit by July 31, 2017.

I find the tenant was served with the Notice. I find the Notice complies with Section 52. I find the tenant has not disputed the notice within the prescribed time to do so. As a

result I find the landlord is therefore entitled to an Order of Possession effective on the effective date of the Notice: July 31, 2017.

As the landlord was in part successful in their application they are entitled to recover their filing fee from the tenant.

In the absence of evidence to support the landlord's claim for the security deposit this portion of their application is dismissed. Therefore, I find it must be administered at the end of the tenancy in accordance with the Act.

Conclusion

The landlord's application for an Order of Possession is granted. Their monetary claim respecting the security deposit is dismissed.

I grant an Order of Possession to the landlord. The landlord is given the Order which must be served on the tenant. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I Order that in satisfaction of their filing fee the landlord may retain \$100.00 from the tenant's security deposit. The balance of which must be administered in accordance with the Act.

This Decision is final and binding.

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 25, 2017

Residential Tenancy Branch