



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC MNDC OLC ERP PSF

Introduction

The tenant applied under the *Residential Tenancy Act* (the “*Act*”) to cancel a 1 Month Notice to End Tenancy for Cause dated August 30, 2017 (the “1 Month Notice”) for emergency repairs for health or safety reasons, for a monetary order in the amount of \$4,606.51 for money owed or damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, and to provide services or facilities agreed to but not provided.

The tenant and an agent for the landlord (the “agent”) attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing. I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The parties confirmed that they both received and had the opportunity to review the documentary evidence served upon them by the other party. I find that there are no service issues as a result.

Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the 1 Month Notice. I find that not all the claims on the Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant’s request to set aside the 1 Month Notice at this proceeding. The balance of the tenant’s application is dismissed, **with leave to re-apply**.

Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on October 1, 2014. Monthly rent of \$950.00 is due on the first day of each month. The tenant continues to occupy the rental unit.

The tenant confirmed that she received the 1 Month Notice on August 30, 2017 and disputed it on September 5, 2017 which is within the allowable 10 day time limit provided under section 47 of the *Act*. The 1 Month Notice alleges one cause; repeated late payment of rent and breach. The effective vacancy date indicated on the 1 Month Notice is listed as September 30, 2017. The tenant confirmed that she received both pages of the 1 Month Notice.

During the hearing, the agent testified that the tenant paid the rent for the last three late payments as follows:

1. May 2017 rent due May 1, 2017 paid on May 2, 2017.
2. April 2017 rent due April 1, 2017 paid on April 3, 2017.
3. March 2017 rent due March 1, 2017 paid on March 3, 2017.

The tenant agreed with the dates above and stated those were the dates she paid the rent all of which are late.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Tenant request to cancel 1 Month Notice – Residential Police Guideline #38 – Repeated Late Payment of Rent states that three late payments are the minimum number sufficient to justify a notice under this provision. As a result of agent's undisputed testimony and the fact that the tenant confirmed the testimony of the agent, I find that the tenant paid her rent late on at least three occasions as described above. I did not find it necessary to consider further testimony regarding additional late payments of rent as the landlord has succeeded in proving the cause listed on the 1 Month Notice. Therefore, **I dismiss** the tenant's application to cancel the 1 Month Notice and I uphold the landlord's 1 Month Notice with an effective vacancy date of September 30, 2017. Section 55 of the *Act* applies and states:

Order of possession for the landlord

- 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.**

[My emphasis added]

I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act* **effective September 30, 2017 at 1:00 p.m.**

Conclusion

The tenant's application to cancel the 1 Month Notice has been dismissed. The 1 Month Notice issued by the landlord has been upheld.

The landlord has been granted an order of possession effective September 30, 2017 at 1:00 p.m. I find the tenancy ends on that date and time. The order of possession must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 28, 2017

Residential Tenancy Branch