



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 537070 BD LTD DBA TRIUMPH MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FF

Introduction

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

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72 of the *Act*.

SW ('tenants') appeared for the tenants, while JD ('landlords') appeared on behalf of the landlords. 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 landlords confirmed receipt of the tenants' application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlords were duly served copies of the tenants' application and evidence. The landlord did not submit any written evidence for this hearing.

The tenants confirmed receipt of the 1 Month Notice, with an effective date of August 31, 2017, on July 31, 2017. Accordingly, I find the tenants were served with the 1 Month Notice in accordance with section 88 of the *Act*.

Issues

Should the landlords' 1 Month Notice be cancelled? If not, are the landlords entitled to an Order of Possession?

Are the tenants entitled to recovery of the filing fee for this application from the landlords?

Background and Evidence

This month-to-month tenancy began on September 1, 2014, with monthly rent currently set at \$880.00, payable on the first of each month. The landlords collected, and still hold, a security deposit in the amount of \$412.50.

The landlords submitted the notice to end tenancy providing the following grounds:

1. The tenant or a person permitted on the property by the tenant has:
 - i) significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - ii) put the landlord's property at significant risk; or
 - iii) seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
2. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to:
 - i) Damage the landlord's property;
 - ii) adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant; or
 - iii) jeopardize a lawful right or interest of another occupant or this landlord.
3. The tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The landlords testified that on July 27, 2017, at approximately 7:15 P.M., the landlords were contacted by the tenant above the rental unit that they smelled smoke coming from the tenants' bedroom. The landlords attended to discover that there was a fire caused by the tenants' cigarette, which the tenants do not dispute. The tenants admitted that there was a fire in the bedroom, but testified that it was only a one-time incident where the tenants' pet rat knocked the ashtray onto the bed, and that there were no flames or damage to the rental unit.

The tenants testified that they were in the shower when the incident took place, and expressed concern that the upstairs tenants entered their rental unit through the patio door without their permission.

The landlords expressed concern that the tenants were negligent, causing the fire, and potentially putting the entire property and every occupant at risk as the building is wood

framed one. The landlords testified that this was not the first incident, and that this may happen again.

Analysis

I accept the landlords' undisputed testimony that a fire had taken place on July 27, 2017 in the tenants' rental unit. The tenants admitted that they left an ashtray unattended with their pet rat while they were in the shower. The tenants admitted that their rat had caused the fire. The tenants testified in the hearing that they were concerned about the neighbour entering their unit, who attended the unit, and who notified the landlord of the fire. I find that the tenants' failed to address the landlords' concerns that this incident would take place again, and simply stated that this was a one-time incident.

I find that the landlords have provided sufficient evidence to demonstrate that the tenants had put the landlords' property at significant risk, and that the tenants had seriously jeopardized the health and safety of other occupants. Accordingly, I dismiss the tenants' application to cancel the 1 Month 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 the testimony of the landlords and the tenants, I find that the tenants were served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 52 of the *Act*.

Based on my decision to dismiss the tenants' application to cancel the 1 Month Notice, and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, August 31, 2017. I find that the landlords are entitled to a 2 day Order of Possession. The landlords will be given a formal Order of Possession which must be served on the tenants. If the tenants do not vacate the rental unit within

the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

As the tenants were not successful in their application, I dismiss their application to recover the filing fee.

Conclusion

I dismiss the tenants' entire application for dispute resolution.

I find that the landlords' 1 Month is valid and effective as of August 31, 2017. I grant an Order of Possession to the landlords effective two **days after service of this Order** on the tenants. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: November 3, 2017

Residential Tenancy Branch