



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

The hearing was convened by telephone conference call and was attended by the Landlords. The Tenant did not attend. The Landlords attended the hearing at the scheduled time, ready to proceed, and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer only to the relevant facts and issues in this decision.

Preliminary Matters

The Tenant did not attend the hearing and only submitted the first page of the One Month Notice. In the hearing the Landlords provided affirmed and undisputed testimony regarding the form and content of the One Month Notice served on the Tenant. The testimony of the Landlords matched the information contained on the first page of the One Month Notice submitted by the Tenant. As a result, I requested that the Landlords submit to me, no later than 4:30 pm on the date of the hearing, a true copy of both pages of the One Month Notice that was served on the Tenant. I advised the Landlords that if I did not receive both pages of the One Month Notice in the timeline noted above, I would render the decision as if I did not have the second page of the One Month Notice. A copy of both pages of the One Month Notice was submitted by the Landlords within the timeframe noted above, and as a result, I have considered it in this decision.

Issue(s) to be Decided

Is the Tenant entitled to cancel a 1 Month Notice to End Tenancy for Cause pursuant to Section 47 of the *Act*?

Are the Landlords entitled to an Order of Possession pursuant to Section 55 of the *Act*?

Background and Evidence

The One Month Notice in the documentary evidence before me, dated August 21, 2017, has an effective vacancy date of October 1, 2017, and lists the following reasons for ending the tenancy:

- The Tenant or a person permitted on the residential property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property;
- The Tenant or a person permitted on the residential property by the Tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property;
- The Tenant or a person permitted on the residential property by the Tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlord; and
- The tenant has breached a material term of the tenancy agreement and has not corrected the situation within a reasonable time after the Landlord gave written notice to do so.

The One Month Notice indicates that it was served on the Tenant on August 21, 2017, by posting a copy to the door of the Tenant's rental unit. In the hearing the Landlords testified that the One Month Notice was served in the manner described above.

The Tenant did not appear at the hearing to present any evidence or testimony.

Analysis

I have reviewed all relevant documentary evidence and oral testimony and in accordance with sections 88 and 89 of the *Act*, I find that the Tenant was served with the One Month Notice on August 24, 2017, three days after it was posted to the door of their rental unit.

Although the Tenant filed an Application seeking to cancel the One Month Notice, the Tenant did not appear at the hearing to present evidence in support of their Application. As the Landlords, who are the Respondents named in the Tenant's Application, appeared at the hearing, the Tenant's Application is dismissed without leave to reapply.

I note that Section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a Notice to End Tenancy issued by a landlord, I must consider if the landlord is entitled to an Order of Possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with Section 52 of the *Act*.

Section 52 of the Act states the following with regards to the form and content of a Notice to End Tenancy:

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

The One Month Notice in the documentary evidence before me is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the notice, states the grounds for ending the tenancy, and is in the approved form. As a result, the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

Conclusion

The Tenant's Application is dismissed without leave to reapply and pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlords effective **Two Days after service of this Order** on the Tenant. The Landlords are provided with this Order in the

above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

At the request of the Landlords, copies of the decision and the Order of Possession will be sent to them at the e-mail addresses they provided in the hearing. A copy of the decision will also be mailed to the Applicant at the address listed on their Application.

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 10, 2017

Residential Tenancy Branch