



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LMLTD HOLDINGS CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

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

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants, tenant KW ("tenant") and "tenant GW" did not attend this hearing, which lasted approximately 52 minutes. The landlord's two agents, landlord TL ("landlord") and "landlord DT" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the property manager and landlord DT confirmed that she was the resident building manager, both employed by the landlord company named in this application. Both agents confirmed their authority to speak on behalf of the landlord company at this hearing.

The landlord confirmed that the tenants were each served with the landlord's application for dispute resolution hearing package on February 8, 2018, both by way of registered mail. The landlord provided two Canada Post receipts and tracking numbers with its application. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlord's application on February 13, 2018, five days after their registered mailings.

Landlord DT confirmed that the tenants were served with the landlord's 1 Month Notice to End Tenancy for Cause, dated January 12, 2018 ("1 Month Notice") on the same date by way of posting to the tenants' rental unit door. The landlord said that he witnessed this posting by landlord DT. In accordance with sections 88 and 90 of the

Act, I find that both tenants were deemed served with the landlord's 1 Month Notice on January 15, 2018, three days after its posting.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on December 1, 2012 for a fixed term ending on February 28, 2013 after which it became a month-to-month tenancy. Monthly rent in the current amount of \$775.00 is payable on the first day of each month. A security deposit of \$375.00 was paid by the tenants and the landlord continues to retain this deposit. Both parties signed a written tenancy agreement and a copy was provided for this hearing. The landlord company named in the tenancy agreement is the owner of the landlord company that filed this application. The landlord company that filed this application is the owner on the land title for the rental unit and the rental building. Both tenants continue to reside in the rental unit. Tenant GW is the father of the tenant.

The landlord's 1 Month Notice indicates an effective move-out date of February 28, 2018. The landlord issued the 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;*
 - *put the landlord's property at significant risk.*
- *Tenant has engaged in illegal activity that has, or is likely to:*
 - *damage the landlord's property;*
 - *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.*

The landlord seeks an order of possession based on the 1 Month Notice. The landlord testified that the 1 Month Notice was issued because the tenant damaged light fixtures and other common area property in the rental building, broke into the elevator and utility rooms of the rental building in order to sleep there, used and disposed of drug needles in the stairwells and hallways of the rental building, and screamed, yelled at and threatened the landlord's agents and other occupants in the rental building. He claimed

that it also caused the landlord's agents and other occupants to call the police who attended at the rental building for the above disturbances. The landlord said that after the 1 Month Notice was issued to the tenant, the behaviour continued. The landlord provided photographs of the damage to the rental building, witness letters from other occupants in the rental building, and warning letters to the tenant regarding this behaviour.

The landlord is also seeking to recover the \$100.00 filing fee paid for this application from the tenants.

Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant significantly interfered with and unreasonably disturbed the landlord's agents and other occupants in the same rental building. I accept the landlord's undisputed evidence that the tenant yelled at and threatened other occupants, and caused damage to the rental building. This caused disturbance to other occupants and the landlord, which caused the police to attend at the rental unit on multiple occasions. I accept the landlord's undisputed evidence that after serving the 1 Month Notice to the tenant, he continued with the same behaviour as above. I find that the landlord provided sufficient supporting documentary evidence including warning letters issued to the tenant, witness letters from other occupants and photographs of damage to the rental building.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reasons.

The tenants have not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenants to take this action within ten days led to the end of this tenancy on February 28, 2018, the effective date on the 1 Month Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by February 28, 2018. As this has not occurred, I find that the landlord is entitled to an **order of possession effective at 1:00 p.m. on April 30, 2018**, pursuant to section 55 of the *Act*. The landlord did not raise any issues with rent being paid and so I assume that the tenants have paid rent until the end of April and are entitled to possession of the rental unit until that time. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 filing fee paid for the application.

Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on April 30, 2018**. Should the tenants 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.

I order the landlord to deduct \$100.00 from the tenants' security deposit of \$375.00 in full satisfaction of the monetary award for the filing fee. The remainder of the tenants' security deposit in the amount of \$275.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

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: April 11, 2018

Residential Tenancy Branch