



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYPIEA REAL ESTATE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, OLC, AAT, OPC, FFL

Introduction

This hearing was convened in response to cross-applications by both parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant made application February 12, 2018 for:

1. To Cancel a Notice to End for Cause - Section 47
2. For the landlord to comply with the Act – Section 62
3. For the landlord to allow access – Section 70

The landlord made application March 09, 2018 for:

1. An Order of Possession - Section 55
2. An Order to recover the filing fee for this application - Section 72

The applicant **tenant** was provided with a copy of the Notice of a Dispute Resolution Hearing dated February 19, 2018 after filing their application to dispute the landlord's Notice to End and other matters. The tenant, however, did not attend the hearing set for today at 09:30 a.m. The phone line remained open during the hearing of 15 minutes and was monitored throughout this time. The only party to call into the hearing was the landlord. The landlord testified the tenant may still reside in the unit although they have not seen the tenant for several weeks. The landlord also testified that they have not received an application from the tenant regarding the matters in dispute.

I accept the landlord's evidence that the tenant was personally served with the **landlord's** application for dispute resolution and notice of hearing as well as their evidence by registered mail, for which they provided proof particulars of the mailing. The landlord was given opportunity to be heard, to present relevant evidence and to make submissions.

Preliminary matters

The landlord provided testimony that another tenant of the residential property named as a co-applicant in the tenant's application is not a co-tenant with the applicant of this matter, RB. The landlord testified that the named co-tenant has their own tenancy agreement although they share some facilities of the rental unit. As a result, the style of cause in this matter has been amended, removing the second named tenant, MK, in this matter.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover their filing fee?

Background and Evidence

In the tenancy rent in the amount of \$630.00 is payable in advance on the first day of each month. The landlord holds the security deposit of \$315.00 in trust.

The tenant is claimed to have engaged in illegal activity that has or is likely to adverse the quiet enjoyment of another occupant. The landlord claims the tenant repeatedly smokes marijuana in the house with a resulting intrusive odour throughout the house contrary to their tenancy agreement, screaming in the midst of the night, walking around the shared rental unit with an apparent *gun*, all of which have garnered repeated complaints from the other tenants. On January 30, 2018 the landlord served the tenant with a 1 Month Notice to End tenancy for Cause by posting it on their door. The tenant applied to dispute the Notice to End within the time permitted to do so but did not attend their hearing.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

Based on the landlord's evidence I find that the tenant was served with a Notice to End Tenancy January 30, 2018. The tenant applied to dispute the Notice to End but did not attend their hearing and the undisputed evidence is that they did not serve the landlord with their application. As a result, their application disputing the Notice is **dismissed**.

I find the landlord's Notice to End complies with the form and content required by **Section 52** of the Act. In this type of matter, **Section 55(1)** of the Act prescribes that if I dismiss the tenant's application or uphold the landlord's Notice to End I *must* grant the landlord an **Order of Possession**. The landlord is further entitled to recover their filing fee from the tenant.

Conclusion

The tenant's application is **dismissed**, without leave to reapply.

The landlord's application is **granted**.

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this Order of Possession. 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 the landlord may retain \$100.00 from the tenant's security deposit in satisfaction of the filing fee.

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: April 25, 2018

Residential Tenancy Branch