



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPC, FFL

Introduction

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

- an Order of Possession for Cause, pursuant to sections 47 and 55 of the *Act*, and
- recovery of the filing fee from the tenant pursuant to section 72 of the *Act*.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 10:29 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord, the landlord's agent G.C., and the landlord's witness K.H. attended the hearing. The landlord's agent G.C. primarily spoke on behalf of the landlord, and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, the landlord's agent, the landlord's witness K.H., and I were the only ones who had called into this teleconference.

The landlord's agent testified that the landlord's application for dispute resolution was sent individually to both the tenants (S.M. and R.H.) by Canada Post registered mail on April 26, 2018. This testimony was supported by two Canada Post registered mail tracking numbers submitted as documentary evidence by the landlord. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application on May 1, 2018, five days after its mailing.

Issue(s) 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 from the tenants?

Background and Evidence

The landlord's agent provided undisputed testimony regarding the following facts. This month-to-month tenancy began on April 15, 2017. The current monthly rent is \$800.00 payable on the first day of the month. A security deposit of \$400.00 was paid at the start of the tenancy and continues to be held by the landlord. As of the hearing date, the landlord's agent stated that tenant S.M. continued to reside in the rental unit, however, it was not clear if the other tenant R.H. had already moved out permanently or temporarily from the unit.

The landlord's agent testified that a One Month Notice to End Tenancy for Cause (One Month Notice), was personally served on tenant S.M. by the former building caretaker on March 25, 2018. The One Month Notice, submitted into evidence by the landlord, states an effective move-out date of April 30, 2018, and cites the following reasons for seeking an end to this tenancy:

Tenant has allowed an unreasonable number of occupants in the unit/site.

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of 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:

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

In the “Details of Cause” section of the One Month Notice, the landlord has written the following:

Tenant has had verbal warning and written warning with regards to additional occupants, unreasonable amount of traffic coming and going, illegal activity and cleanliness of unit. Tenant has also threatened another occupant of the building.

The landlord’s agent confirmed that the tenant S.M. had paid rent for the month of May 2018 as the tenant receives shelter assistance payments which are automatically deposited to the landlord.

Analysis

In considering this matter, I have reviewed the landlord’s One Month Notice to ensure that the landlord has complied with the requirements of section 52 of the *Act*. I find that the One Month Notice complies with the form and content requirements of section 52 of the *Act* as it is signed and dated by the landlord; provides the address of the rental unit; states the effective date of the notice; and explains the grounds for the tenancy to end.

Section 47 of the *Act* provides that upon receipt of a One Month Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The landlord’s agent provided sworn testimony that the One Month Notice was personally served on tenant S.M. on March 25, 2018. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were served with the landlord’s One Month Notice on March 25, 2018.

I accept the evidence before me that the tenants failed to dispute the One Month Notice within the 10 days granted under section 47(4) of the *Act*. Accordingly, I find that the tenants are conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the stated effective date of the One Month Notice, April 30, 2018. Therefore, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

As the landlord was successful in their application, they may, pursuant to section 72 of the *Act*, recover the \$100.00 filing fee from the tenant. In place of a monetary award, the landlord may withhold \$100.00 from tenant’s security deposit.

Conclusion

I grant an order of possession to the landlord 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.

The landlord may withhold \$100.00 from the tenant's security deposit in satisfaction of the return of the filing fee.

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: June 11, 2018

Residential Tenancy Branch