



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL OPC**

Introduction

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

- an order of possession pursuant to sections 47 and 55 of the *Act*;
- reimbursement of the filing fee pursuant to section 72 of the *Act*.

The hearing was conducted by teleconference and was attended by the landlord, his son and representative RB ("the landlord") and his wife AB (witness). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions, and to call witnesses.

The tenant did not attend this hearing, although I left the teleconference hearing open from the start time of 9:30 AM until 10:00 AM to enable the tenant to call. I confirmed the Notice of Hearing provided the correct call-in numbers and participant codes. From the teleconference system, I confirmed the landlord, the landlord's son and representative RB, and I were the only participants in this teleconference.

The landlord testified he served the Notice of Hearing, the Application for Dispute Resolution, and the landlord's documents on the tenant by registered mail on September 17, 2018. The landlord submitted a copy of the Canada Post tracking number which is referenced on the first page of this decision. The tenant is deemed served with the documents on September 22, 2018, the 5th day after mailing, pursuant to section 90 of the *Act*. I find the tenant served on September 22, 2018 pursuant to section 89.

Issue(s) to be Decided

Is the landlord entitled to the following:

- an order of possession pursuant to sections 47 and 55 of the *Act*;
- reimbursement of the filing fee pursuant to section 72 of the *Act*.

Background and Evidence

The landlord provided uncontradicted affirmed testimony that the parties entered into a verbal tenancy agreement in 2015 for the unit, a basement suite in the landlord's home. The parties agreed to monthly rent of \$600.00 payable on the first of the month. The tenant did not provide a security deposit.

The landlord testified the tenant paid rent late many times, including during the previous 12 months. The landlord's wife, AB, called as a witness, provided affirmed testimony the tenant was late paying rent "almost all the time" during the tenancy. The landlord's son and representative RB affirmed the evidence of the landlord and the witness AB that the tenant was frequently late in paying rent and was late most months in the 12 months preceding the issuance of the Notice.

The landlord testified he did not always write receipts. He did not maintain a ledger. He submitted copies of receipts:

- dated September 10, 2018 in the amount of \$600.00 for rent due September 1, 2018, and
- dated October 7, 2018 in the amount of \$400.00 for rent due October 1, 2018, indicated a balance owing of \$200.00

The landlord issued a One Month Notice to End Tenancy for Cause ("One Month Notice") which his son RB personally served on the tenant on August 9, 2018. RB testified he personally served the tenant on that date. The landlord filed a witness Proof of Service form in support of service.

The One Month Notice states the reasons as follows:

- Tenant is repeatedly late paying rent
- 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 or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

- Tenant has not done required repairs of damage to the unit/site

Analysis

I have reviewed all documentary evidence and testimony.

Section 52 of the Act requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the rental unit; state the effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the form and content of One Month Notice complies with section 52 of the *Act*.

I find the tenant was served with the One Month Notice on August 9, 2018 pursuant to section 88.

Section 47 of the Act allows a landlord to end a tenancy by giving notice if the tenant is repeatedly late paying rent. *Residential Tenancy Policy Guideline # 38* states that three late payments are the minimum number sufficient to justify a notice under these provisions.

Section 47 of the *Act* provides that upon receipt of a One Month Notice, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find the tenant has not disputed the One Month Notice within the ten-day period following service.

Pursuant to section 40(5), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice (being September 30, 2018) requiring the tenant to vacate the rental unit by that date.

I uphold the landlord's One Month Notice and find the tenant has been repeatedly late paying rent.

I therefore grant the landlord an order of possession effective two days after service upon the tenant.

I find the landlord is entitled to reimbursement of the filing fee of \$100.00 and grant the landlord a monetary order in this amount.

Conclusion

I grant the landlord a monetary order in the amount of **\$100.00**.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

I grant the landlord an Order of Possession effective two days after service on the tenant.

This Order must be served on the tenant. If the tenant fails to comply with this Order, the landlord may file the Order with the Supreme Court of British Columbia to be enforced as an Order of that Court.

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: October 26, 2018

Residential Tenancy Branch