



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MT

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (“the Act”) for:

- an order cancelling the landlord’s 1 Month Notice to End Tenancy for Cause (“1 Month Notice”) pursuant to section 47 *Act*; and
- more time to dispute the notice to end tenancy.

Only the respondent landlord attended the hearing. The landlord confirmed receipt of the tenant’s application for dispute. The landlord said the tenant was served with a 1 Month Notice to End Tenancy for Cause on September 1, 2018 in person. I find all parties were duly served in accordance with the *Act*.

Issue(s) to be Decided

Can the tenant cancel the landlord’s 1 Month Notice? If not, is the landlord entitled to an Order of Possession?

Should the tenant be granted more time to dispute a notice to end tenancy?

Background and Evidence

Only the landlord attended the hearing. The landlord confirmed that a 1 Month Notice to End Tenancy for Cause was served to the tenant in person on September 1, 2018. The landlord included a copy of this notice with her evidentiary package. The reasons cited on the 1 Month Notice were listed as follows –

The tenant has allowed an unreasonable number of occupants in the unit;

The tenant or a person permitted on the residential property by the tenant has put the landlord’s property at significant risk;

The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property; 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 property by the tenant has caused extraordinary damage to the unit or property.

Analysis

While the landlord attended the hearing by way of conference call, the applicant tenant did not, although I waited until 9:40 A.M. in order to enable the applicant tenant to connect with this teleconference hearing scheduled for 9:30 A.M. The landlord who attended the hearing was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Commencement of the hearing: The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Following opening remarks, the landlord explained the tenant was still in occupation of the rental unit and that the landlord was still pursuing the Notice to End Tenancy served on the tenant on September 1, 2018.

Section 55(1) of the Act reads as follows:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

- (a) the landlord's notice to end tenancy complies with section 52{form and content of notice to end tenancy}, and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

A copy of the landlord's 1 Month Notice to End Tenancy for Cause was supplied to the hearing as part of the landlord's evidentiary package. Based on a review of the 1 Month Notice for Cause and the landlord's undisputed testimony, I find the landlord's 1 Month Notice complies with section 52 of the *Act*.

The tenant's failure to attend this hearing and present any evidence or testimony speaking to their application leads me to order that their application to cancel the 1 Month Notice is dismissed without liberty to reapply. I am dismissing without leave to reapply because I find the tenant was aware of the hearing as they applied to dispute the notice. Furthermore, the landlord attended the hearing and was therefore made aware of the hearing date and time.

Based on my decision to dismiss the tenant's application for dispute resolution and my finding that the landlord's 1 Month Notice complies with section 52 of the *Act*, I find that this tenancy was to end on the corrected effective date of the 1 Month Notice, in this case October 31, 2018. As the tenant is still in occupation of the rental unit, the landlord is therefore entitled to a 2 day Order of Possession.

Conclusion

I grant an Order of Possession to the landlord effective two days after service of this Order on the tenant. Should the tenant fail to comply with this Order, this Order may be enforced as an Order of the Supreme Court of British Columbia.

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 30, 2018

Residential Tenancy Branch