



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding KAKAMAR APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

BT and WH appeared on behalf of the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord's agents confirmed receipt of the tenant's dispute resolution application ('Application'). In accordance with sections 88 of the *Act*, I find that the landlord was duly served with the tenant's application. As both parties acknowledged receipt of each other's evidence, I find that both parties were duly served with each other's evidence in accordance with section 88 of the *Act*.

The tenant confirmed that she was personally served with a 1 Month Notice on July 31, 2018 Accordingly, I find the tenant duly served with the 1 Month Notice, pursuant to section 88 of the *Act*.

Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This fixed-term tenancy began on August 1, 2017, with monthly rent currently set at \$1,150.00, payable on the first of the month. The tenant paid a security and pet damage deposit in the amount of \$575.00 each, which the landlord still holds.

The landlord served the tenant with the 1 Month Notice to End Tenancy on the grounds that the tenant had repeatedly made late rent payments. At the time of the hearing the landlord confirmed that the tenant has paid all her outstanding rent, but the landlord is still seeking the end of this tenancy on the grounds that the tenant has made repeated late rent payments. The payments were for use and occupancy only.

The landlord provided copies of several 10 Day Notices to End Tenancy as well as notices of violation in their evidence. The tenant is not disputing the fact that she was repeatedly late in paying his rent, but

submits that she had a valid excuse. The tenant testified that the landlord had started charging her \$15.00 per month for parking, which was not previously charged to her. The tenant also testified that she was charged late fees and NSF fees on top of her rent payments. Due to this additional expense, the tenant has had difficulty making her rent payments on time.

Analysis

Section 47 of the *Residential Tenancy Act* allows the landlord to end a tenancy for cause:

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:...*

(b) the tenant is repeatedly late paying rent;...

The landlord's agents provided undisputed oral testimony and written evidence to support that the tenant has been late in paying her rent on at least three occasions. The tenant testified she was late in her rent payments as the landlord testified, but this was because her income does not support the additional fees charged to her by the landlord.

Although the tenant testified in the hearing that she had a reason for why she was repeatedly late in paying her rent, it is undisputed that the tenant has been late with her rent payments on three occasions. The repeated late rent payments meet the criteria for sufficient cause to end this tenancy under section 47(1)(b) of the *Act*. Therefore, I am dismissing the tenant's application to cancel the 1 Month Notice dated July 30, 2018 without leave to reapply.

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 to the landlord an order of possession of the rental unit if

(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 1 Month Notice was submitted for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, August 31, 2018. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental

unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenant's application without leave to reapply. I find that the landlord's 1 Month Notice is valid and effective as of August 31, 2018.

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 filed and 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: September 24, 2018

Residential Tenancy Branch