



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOUBLE R ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

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 section 55.

While the landlord's agent, DT ("landlord"), attended the hearing by way of conference call, the tenant did not. I waited until 11:11 a.m. to enable the tenant to participate in this hearing scheduled for 11:00 a.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord's agent gave sworn testimony that the tenant was served a copy of the Application for Dispute Resolution hearing package by way of Registered Mail on August 31, 2018. A Canada Post tracking number was provided by the landlord. Pursuant to section 89 and 90 of the *Act*, I find the tenant was deemed served with the dispute resolution hearing package on September 5, 2018, five days after mailing. As the tenant was not served with the landlord's evidentiary materials in accordance with section 88 of the *Act*, these documents will be excluded for the purposes of the hearing.

The landlord's agent provided undisputed testimony that the tenant was personally served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice'), with an effective date of June 30, 2018, on May 25, 2018. Accordingly, I find that the tenant was duly served with the 1 Month Notice on May 25, 2018.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

The landlord's agent provided undisputed testimony that this fixed-term tenancy began on May 11, 2018. The current rental amount is \$700.00, due on the first of each month. The landlord currently holds a security deposit in the amount of \$350.00, and the tenant continues to reside in the rental unit.

The landlord submitted the notice to end tenancy providing four grounds:

1. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
2. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
3. the 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; and
4. the tenant has engaged in illegal activity that has, or is likely to, jeopardize the lawful right or interest of another occupant or the landlord.

The landlord's agent testified that the tenant's ongoing behaviour has raised concern of the landlord and other occupants. The landlord testified that in addition to ongoing fights, including a police incident in May of 2018 which involved a stabbing, the tenant has engaged in behaviour that has put the landlord's property at risk.

The landlord's agent testified that the tenant has been warned on multiple occasions about leaving his belongings in front of the mechanical room, but has not removed his items.

Analysis

Based on undisputed testimony of the landlord's agent, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of 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.

Section 47 of the *Act* provides that upon receipt of a 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. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, June 30, 2018.

In this case, this required the tenant and anyone on the premises to vacate the premises by June 30, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

Conclusion

I find that the landlord's 1 Month Notice is valid and effective as of June 30, 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: November 15, 2018

Residential Tenancy Branch



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.gov.bc.ca/landlordtenant) has information about:

- How and when to enforce an order of possession:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to enforce a monetary order:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to have a decision or order corrected:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the correction process
- How and when to have a decision or order clarified:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the clarification process
- How and when to apply for the review of a decision:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the review process
Please Note: Legislated deadlines apply

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.gov.bc.ca/landlordtenant

Residential Tenancy Branch

#RTB-136 (2014/12)

