



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MACDONALD REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AS, CNC, ERP, RP

Introduction

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

- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to make repairs to the rental unit pursuant to section 32.

The landlord's agent attended the hearing via conference call and provided affirmed testimony. The tenant did not attend. The landlord provided affirmed testimony that the landlord was served with the tenant's notice of hearing package and the submitted documentary evidence. The landlord stated that he was aware of the tenant's listed issues on the application for dispute.

At 14 minutes past the start of the scheduled hearing, the tenant had not yet attended. As such, the tenant's application for an order allowing the tenant to sublet; for emergency repairs; and for repair to the rental unit were dismissed without leave to reapply. The hearing proceeded on the remaining issue of the tenant's request to cancel the 1 month notice. The landlord provided affirmed testimony that they wished to continue the process in ending the tenancy.

The landlord provided undisputed affirmed evidence that the tenant was served with the 1 month notice dated November 30, 2018 by Canada Post Registered Mail. The 1

Month Notice sets out an effective end of tenancy date of December 31, 2018 and that it was being given as:

- the tenant has assigned or sublet the rental unit/site without the landlord's written consent.

The tenant provided written details in her application which confirmed that she received a 1 month notice dated November 30, 2018 by Canada Post Registered Mail on December 7, 2018.

The details of cause listed on the 1 month notice state:

*Tenant has subletted the unit without the owners consent.
Correspondence between the tenant and subletter has been received.*

The tenant provided written details which state in part,

I was on a fixed term lease when I first moved in for one year that terminated tenancy, instead of switching to monthly. Near the end of that year, they resigned another fixed term one year lease, odd period, and odd because the rest of the tenants are monthly. It had also been told to me by the real estate agent initially I could stay for as long as I wanted. In the second year lease I sublet without permission when I was called by my employer to work out of town for a few months.

The landlord seeks an order of possession to end the tenancy.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, the tenant failed to attend to put forth her application to cancel the 1 month notice. The tenant's application is dismissed. Pursuant to section 55 of the Act, the tenant's application having been dismissed an order of possession is granted to the landlord as I have found that the form and content of the 1 month notice is correct. I also note that as the tenant had confirmed in receipt of the 1 month notice on December 7, 2018 without challenge by the landlord that the tenant is deemed to have received the 1 month notice on December 7, 2018. Pursuant to Section 53 of the Act, the 1 month notice's effective end of tenancy is corrected to January 31, 2019.

Conclusion

The tenant's application is dismissed without leave to reapply.
The landlord is granted an order of possession.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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: January 22, 2019

Residential Tenancy Branch