



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN TENANT INSPECTION
SERVICES and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened in response to the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The tenant requested:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlords attended the hearing by way of conference call, the tenant did not. The tenant is the applicant in this matter and chose not to dial in. The tenant initiated the process by filing this application and was well aware of today's hearing. HB and PC are the executors of their deceased fathers' estate. JG and AG were hired by the executors to assist with this matter. I waited until 11:11 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlords were 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 hearing proceeded and completed in the absence of the tenant.

JG provided undisputed testimony that the tenant was personally served in the presence of a witness with the One Month Notice, with an effective date of February 28, 2019, on January 17, 2019. I am satisfied that the tenant was served in accordance with section 88 of the Act.

Issue(s) to be Decided

Is the tenant entitled to have the notice to end tenancy cancelled? If not, are the landlords entitled to an Order of Possession?

Is the tenant entitled to the recovery of the filing fee for this application?

Background and Evidence

The landlords gave the following undisputed testimony. PC testified that a verbal tenancy agreement was entered into with the tenant on December 1, 2015. A lower than market value rent was agreed to based on the friendship of the tenant with the executor's father in the amount of \$500.00 due on the first of each month. PC testified that the tenant was served with a One Month Notice for the following reasons:

- *Tenant is repeatedly late paying rent*
- *Tenants rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended.*

PC testified that the tenant has not paid the rent on time every month since December 2017. PC testified that the tenant did not provide any reason for the late payments. JG testified that the tenant was in arrears throughout 2018 and only "caught up" in January 2019 after serving a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. JG testified that the tenant is still in arrears in regards to the utilities. PC testified that the tenant was given the discounted rate so that he could take care of the property until probate was complete and the home is to be sold.

Analysis

When a landlord issues a notice under section 47 of the Act, they bear the responsibility in providing sufficient evidence to support the issuance of the notice. The landlord needs only demonstrate that one of the reasons identified in the 1 Month Notice is valid in order to end a tenancy for cause.

In this case, the landlord has provided **undisputed evidence** that the tenant failed to pay their rent on time on 14 successive occasions from December 2017 to January 2019.

Residential Tenancy Policy Guideline #38 provides the following guidance regarding the circumstances whereby a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions...

However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the tenant cannot be said to be "repeatedly" late...

The evidence presented indicates that the tenant has been late in paying their rent on at least three occasions and only made payment when a notice to end tenancy was served. Based on the above, and in the absence of any disputing evidence from the tenant, I am satisfied that there is a recurring pattern of late payment of rent during this tenancy and that the landlord had adequate grounds to issue the One Month Notice for the tenant's late payment of rent. As section 47 of the *Act* only requires that one of the reasons cited in a 1 Month Notice is valid, I have not considered the landlord's secondary reason for seeking an end to this tenancy.

Section 55 of the *Act* reads in part 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.

I find that the landlord's One Month Notice was issued on the correct form and included all of the required information in order to comply with section 52 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the 1 Month

Notice and issue the landlord an Order of Possession in accordance with section 55(1) of the *Act*.

The tenant has not been successful in their application.

Conclusion

I dismiss the tenant's application in its entirety without leave to reapply.

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: March 08, 2019

Residential Tenancy Branch