



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a one month notice to end the tenancy - Section 47;
2. An Order for the Landlord’s compliance - Section 62.

The conference call hearing was set for 9:30 a.m. on this date. The Arbitrator called in to the hearing at the scheduled time. The line remained open while the phone system was monitored for the duration of the hearing that lasted 24 minutes. The only Party who called into the hearing during this time was the Landlord who was ready to proceed. It was confirmed that the correct call-in numbers and participant codes were provided in the Notice of Hearing to the Tenants. As the Tenants did not attend the hearing to pursue their application I dismiss their application without leave to reapply. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy effective?

May the notice to end tenancy be amended?

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy under written agreement started on November 1, 2018. Rent of \$1,500.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$750.00 as a security deposit. The Tenants caused disturbances over several months generating several complaints from other occupants in the building. The Landlord verbally cautioned the Tenants multiple times. The Landlord also sent warning letters setting out the concerns on January 22 and February 14, 2019. The Tenants did not cease the disturbances and on February 26, 2019 the Landlord served a one month notice to end tenancy for cause (the "Notice"). The Notice was served by Agent GA and witnessed by Agent JB, both in attendance at the hearing.

The Notice is signed and dated by the Landlord, gives the address of the rental unit, sets out the effective date of March 31, 2019 and states the grounds for ending the tenancy. The Landlord used the Residential Tenancy Branch (the "RTB") approved form for the Notice however no details for the grounds for ending the tenancy were included on the Notice or attached to the Notice. The Tenants disputed the Notice by making an application on March 13, 2019. It is noted that the Tenants set out in their application that they received the Notice in person on February 28, 2019. The Tenants have not moved out of the unit and the Landlord seeks an order for possession for as soon as possible.

Analysis

Section 47(4) of the Act provides that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. Based on the Landlord's undisputed evidence of the date of service of the Notice and considering the Tenants' submission on their application of the date they received the Notice, I find that the Tenants did not apply within the time allowed.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to

the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that In order to be effective, a notice to end a tenancy 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 68(1) of the Act provides that if a notice to end a tenancy does not comply with section 52 the notice may be amended if

- the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
- in the circumstances, it is reasonable to amend the notice.

The Notice does not set out or attach the details for the grounds for ending the tenancy as required by the form approved by the RTB however I accept the Landlord's undisputed evidence that the Tenants were verbally and in writing repeatedly given details for the reasons that ultimately were selected on the Notice. Further the Tenants did not apply to dispute the Notice within the time allowed. For these reasons, I find that the Tenants should have known the details for the reasons and in the circumstances it is reasonable to amend the Notice to otherwise comply. As the Tenants' application has been dismissed and as the Notice complies with the Act, I find that the Landlord is entitled to an order of possession.

Conclusion

The Tenants' application is dismissed.

I grant an Order of Possession to the Landlord. The Tenants must be served with this **Order of Possession**. Should the Tenants 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 RTB under Section 9.1(1) of the Act.

Dated: May 03, 2019

Residential Tenancy Branch