



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FFL

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated March 7, 2019 ("1 Month Notice"), and to recover the cost of the filing fee.

Tenant JT ("tenant") and two agents for the landlord JH and MT ("agents") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally and ask questions about the hearing process. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that the landlord served the tenants with the Notice of Dispute Resolution Proceeding, application and documentary evidence. The tenant did not serve the Residential Tenancy Branch ("RTB") with any documentary evidence in response to the landlord's claim. I find the tenant sufficient served according to the *Act*.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing. The parties were advised that decision would be emailed to the parties. Any orders will be emailed to the appropriate party for service on the other party.

Issue to be Decided

- Is the landlord entitled to an order of possession based on an undisputed 1 Month Notice?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on November 8, 2004. Monthly rent was originally \$810.00 per month and is currently \$1,208.00 per month and is due on the first day of each month.

The tenant confirmed being served with the 1 Month Notice on March 7, 2019 and did not dispute the 1 Month Notice. The tenant stated that they have attended several funerals and made a call into the RTB; however, did not file an application to dispute the 1 Month Notice.

The 1 Month Notice is dated, signed, and includes one cause which is that the tenant is repeatedly late paying rent. The effective vacancy date listed on the 1 Month Notice is April 30, 2019. The agent testified that the tenants have paid for use and occupancy for the month of May 2019.

Analysis

Based on the documentary evidence of the parties and the testimony provided by the parties during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenants did not dispute the 1 Month Notice within 10 days after being served with the 1 Month Notice on March 7, 2019. The effective vacancy date of the 1 Month Notice is listed as April 30, 2019. Section 47 of the *Act* indicates that when a tenant does not dispute a 1 Month Notice, they are conclusively presumed to have accepted that the tenancy ends on the effective vacancy date. Therefore, I find the tenancy ended on April 30, 2019. I also note that the 1 Month Notice complies with section 52 of the *Act*.

Section 55 of the *Act* applies and states:

Order of possession for the landlord

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.**

[Emphasis added]

Based on the above, I grant the landlord an order of possession pursuant to section 55 of the *Act* effective **May 31, 2019 at 1:00 p.m.** I have used this date as the parties confirmed that money for use and occupancy for May 2019 has been paid by the tenants.

The tenant requested for the agent to consider reinstating the tenancy. The agent denied the tenant's request.

As the landlord's application was successful, I authorize the landlord to retain **\$100.00** from the tenants' security deposit of \$405.00, in full satisfaction of the recovery of the cost of the filing fee pursuant to section 72 of the *Act*.

Conclusion

The landlord's application is fully successful. The tenancy ended on April 30, 2019.

The landlord has been granted an order of possession effective May 31, 2019 at 1:00 p.m. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

The landlord has been authorized to retain \$100.00 from the tenants' security deposit of \$405.00, in full satisfaction of the recovery of the cost of the filing fee pursuant to section 72 of the *Act*.

The decision will be emailed to the parties and the order of possession will be emailed to the landlord for serve on the tenants.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 13, 2019

Residential Tenancy Branch