



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SEVILLE MANAGEMENT LEASING LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order to cancel a One Month Notice to End Tenancy for Cause ("Notice") pursuant to section 47.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. to enable the tenant to call into this hearing scheduled for 9:30 a.m.

The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

In accordance with Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* ("Rules"), this hearing was conducted in the absence of the tenant.

Preliminary Issue

The tenant misnamed the landlord and the unit number to the rental unit was missing on his application. The landlord sought amendments and I allowed them in accordance with section 64(3)(c) of the Act. The corrected name for the landlord and the unit number to the rental unit is reflected on the cover page of this decision.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be upheld?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on January 1, 2019. In April 2019, the building manager GM noticed and met two female occupants in the building who identified themselves as living in the subject rental unit. These people later applied to become residents in the building and stated their current address as being that of the subject rental unit. A copy of the women's application was provided as evidence by the landlord.

The building manager also met another couple she didn't know who also identified themselves as living in the same subject rental unit. These people also applied to become tenants in another apartment building owned by the landlord. The landlord noticed the residential address listed on the couple's application was the subject rental unit and the landlord named on the couple's application for tenancy was the applicant/tenant in this proceeding. This application was also provided as evidence.

On May 6, 2019 at 6:30 p.m., the landlord served the tenant with the Notice by taping it to the tenant's door. Proof of service and a copy of the One Month Notice were provided as evidence by the landlord. The landlord chose several reasons for ending the tenancy, including the following reason:

Tenant has allowed an unreasonable number of occupants in the unit/site.

Analysis

I find the tenant deemed served with the One Month Notice to End Tenancy for Cause on May 9, 2019, three days after the landlord posted it to his door pursuant to sections 89 and 90 of the Act.

Rule 7.3 of the Rules of Procedure provides that 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. Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered.

The tenant did not attend the hearing which was scheduled by conference call at 9:30 a.m. and concluded at 9:40 a.m. As he did not attend, he did not present evidence regarding the merits of his claim for me to consider. Consequently, in the absence of evidence from the tenant, the landlord's evidence is undisputed. I find the grounds for ending the tenancy, namely too many occupants in the rental unit, are valid and the Notice is upheld.

Section 55 of the Act reads:

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 have examined the landlord's Notice and find that it complies 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.

The effective date stated on the Notice does not comply with the required notice period. The effective date is deemed changed to June 30, 2019 in accordance with section 53 of the *Act*. The landlord is entitled to an order of possession effective June 30, 2019.

As the tenant was not successful in his claim, he will not recover his filing fee.

Conclusion

I grant an Order of Possession to the landlord effective **June 30, 2019**.

Should the tenant or anyone on the premises 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: June 28, 2019

Residential Tenancy Branch