



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT, OPC, FFL

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. An order to cancel the one month Notice to End Tenancy dated April 30, 2019 and setting the end of tenancy for May 31, 2019.
- b. An order that the tenant recover the cost of the filing fee

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for cause
- b. An order to recover the cost of the filing fee

The tenant(s) failed to appear at the scheduled start of the hearing which was 9:30 a.m. on June 21, 2019. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenant(s) failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

I find that the one month Notice to End Tenancy was personally served on the Tenant on April 30, 2019. Further I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was filed by the landlord was personally served on the tenant on May 16, 2019. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the 10 day Notice to End Tenancy dated April 30, 2019?
- b. Whether the tenant is entitled to recover the cost of the filing fee?
- c. Whether the landlord is entitled to an Order for Possession?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a written tenancy agreement that provided that the tenancy would start on December 1, 2018 and end on November 30, 2019 and become month to month after that. The rent is \$1100 per month payable on the first day of each month. The tenant paid a security deposit of \$550 prior to the start of the tenancy.

The tenancy agreement contained the following clause in the Addendum: “No smoking of any kind in the house or anywhere on the property.”

The landlord testified the tenant vacated the rental unit on June 1, 2019.

Tenant’s Application:

Grounds for Termination:

The Notice to End Tenancy relies on the following grounds:

- Tenant or a person permitted on the property by the tenant has:
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 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - put the landlord’s property at significant risk
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Determination and Orders:

The tenant failed to attend the hearing and failed to provide sufficient evidence to dispute the evidence presented by the landlord as a basis for the grounds set out in the one month Notice to End Tenancy. I determined the tenant has breached a material term of the tenancy agreement by smoking in the rental unit and has not corrected the breach within a reasonable time after written notice to do so.

As a result I determined that the landlord has established sufficient cause to end the tenancy. I dismissed the tenant’s application to cancel the one month Notice to End Tenancy and to recover the cost of the filing fee without liberty to re-apply. I order that the tenancy shall end on the date set out in the Notice.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant’s application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Landlord's Application - Order of Possession:

For the reasons set out above I determined that the landlord was entitled to an Order of Possession.

As the landlord has been successful in this application I ordered that the tenant pay to the landlord the cost of the filing fee in the sum of \$100 such sum may be deducted from the security deposit.

Conclusion:

I dismissed the tenant's application to cancel a one month Notice to End Tenancy and to recover the cost of the filing fee. I granted an Order of Possession and I ordered that the tenant pay to the landlord the cost of the filing fee in the sum of \$100 such sum may be deducted from the security deposit.

This decision is final and binding on the parties.

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 21, 2019

Residential Tenancy Branch