



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT. CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66; and
- cancellation of the landlord's 1 Month Notice pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord's property manager testified that they placed the 1 Month Notice in the tenant's mail slot on May 9, 2019. They provided a signed and witnessed Proof of Service document to attest to this service of the 1 Month Notice to the tenant. The tenant testified that they did not receive the 1 Month Notice until they returned from work in another municipality many days after the 1 Month Notice was posted on their door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 1 Month Notice on May 12, 2019, the third day after its posting on their door.

As the landlord's property manager confirmed that they were handed a copy of the tenant's dispute resolution hearing package on June 6, 2019, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Should an extension of time be granted to the tenant in order to apply to cancel the landlord's 1 Month Notice? Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This month-to-month tenancy began on March 1, 2019. Monthly rent is set at \$800.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$400.00 security deposit paid when this tenancy began.

The landlord's 1 Month Notice seeking an end to this tenancy by June 30, 2019 identified the following reason for ending this tenancy for cause:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*

The parties agreed that the landlord had accepted the tenant's \$800.00 payment for July 2019, enabling the tenant to remain in the rental unit until at least July 31, 2019. The parties agreed that the landlord's acceptance of this payment was not intended to reinstate this tenancy.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on August 31, 2019, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord.
2. The tenant agreed to pay the landlord the final payment of \$800.00, as scheduled by August 1, 2019.

3. The landlord agreed to accept the tenant's final payment of \$800.00 entitling the tenant to remain in possession of the rental unit until August 31, 2019, for use and occupancy only and not to reinstate this tenancy.
4. The tenant agreed to not have any overnight guests in the rental unit for the remainder of this tenancy.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application, the landlord's 1 Month Notice, and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion having been applied.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement by 1:00 p.m. on August 31, 2019. The landlord is provided with these Orders in the above terms and the tenant must be served with an Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. 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.

For the remainder of this tenancy, the tenant is not to have any overnight guests stay in the rental unit.

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: July 19, 2019

Residential Tenancy Branch