



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM AGENT FOR PACIFIC COVE ISLAND
PROPERTIES and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to a One Month Notice to End Tenancy for Cause (the "Notice") and for recovery of the filing fee paid for this application.

The landlord's agents attended the telephone conference call hearing; the tenants did not attend.

The landlord testified that they served the tenants with their Application for Dispute Resolution and Notice of Hearing by registered mail, separately. The landlord provided the copies of the Canada Post Customer Receipt containing the Tracking Numbers to confirm this mailing. These numbers are located on the style of cause page in this Decision.

Based upon the submissions of the landlord, I accept the tenants were served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The hearing process was explained to the landlord's agents and they were given an opportunity to ask questions about the hearing process. Thereafter, the landlords were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit and to recovery of their filing fee paid for this application?

Background and Evidence

The landlord submitted evidence by way of testimony and the written tenancy agreement that this tenancy began on July 1, 2016, the monthly rent was \$985.00, and the tenants paid a security deposit of \$487.50. The landlord submitted that current monthly rent is \$1,060.00.

The landlord submitted evidence that the tenants were served the Notice, dated May 21, 2019, by attaching it to the tenants' door on that date, listing an effective end of tenancy date of June 23, 2019. The landlord submitted a copy of a signed, witnessed proof of service of the Notice.

The Notice served on the tenant sets out that the tenants had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenants did not file such application within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

The causes as stated on the Notice alleged that the tenants breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The landlord submitted that the tenants were prohibited from having a dog in the rental unit; however, they have been spotted with a pet, were given notice to remove the pet, and have not done so.

The landlord's relevant evidence included a copy of the Notice and documentary evidence supporting the causes listed on the Notice, such as the written notice to correct the breach of the material term served on the tenants. The landlord submitted an incident report dated July 17, 2019.

I have no evidence before me that the tenants have filed an application in dispute of the Notice.

Analysis

A notice to end the tenancy is not effective earlier than one month after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date here is changed to June 30, 2019.

I have reviewed all the evidence and accept that the tenants were been served with the Notice as declared by the landlord. Absent evidence to the contrary, the Notice was deemed received by the tenant three (3) days after the Notice was served by attaching it to the tenants' door on May 21, 2019, pursuant to section 90 of the Act. I also find no evidence that the tenants applied to dispute the Notice.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act. I also find the 1 Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

As such, I therefore find the tenants are conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the Notice and that the landlords are entitled to an order of possession for the rental unit on that effective date of June 30, 2019.

As the effective date of the Notice has already passed, I find the landlord is entitled to an order of possession effective two days after service upon the tenants pursuant to section 55 of the Act. If the tenants fail to vacate the rental unit pursuant to the terms of the order after being served with it, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

In the event the landlord has collected rent for the month of August, that rent money is to be returned to the tenants in accordance with section 65(1)(c) of the Act; however, it is within their discretion to allow the tenants to stay until the end of August in lieu of their rent payment.

I additionally find the landlord is entitled to recovery of the filing fee, and as such, I grant the landlord a monetary order in the amount of \$100.00.

Conclusion

The landlord's application for an order of possession of the rental unit is granted.

The landlord is granted a monetary order in the amount of \$100.00 for recovery of their filing fee.

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: August 8, 2019

Residential Tenancy Branch