



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACE REALTY CORP 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* ("Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated July 4, 2019 ("1 Month Notice"), pursuant to section 47.

The landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the owner of the landlord company named in this application and that she had permission to represent the company and the owner of the rental unit. This hearing lasted approximately 23 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's evidence package.

The tenant confirmed personal receipt of the landlord's 1 Month Notice on July 5, 2019. The landlord confirmed service on the above date using the above method. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on July 5, 2019.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession for cause?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claims and my findings are set out below.

Both parties agreed to following facts. This tenancy began on March 22, 2017. Monthly rent in the current amount of \$768.75 is payable on the first day of each month. A security deposit of \$375.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The tenant continues to reside in the rental unit.

Both parties agreed that the landlord issued the 1 Month Notice indicating that "the tenant is repeatedly late paying rent." Both parties agreed that the notice indicates an effective move-out date of August 31, 2019

Both parties agreed that the tenant was late paying rent more than three times during this tenancy. Both parties agreed that the tenant was late paying rent in July, October, November, and December 2018 and January and July 2019.

The tenant said that she paid late rent fees to the landlord. The tenant maintained that she was late paying rent because she had a lot of other bills to pay, including hydro. She said that she also paid rent early many times during this tenancy. The tenant claimed that she tried to pay September 2019 rent to the landlord's property manager in person on August 28, 2019, but the rent was refused. The landlord stated that she did not think the tenant's rent was refused, as it was not the landlord's policy to do that.

Analysis

According to subsection 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant receives the notice. The tenant received the 1 Month Notice on July 5, 2019 and filed her application to dispute it on July 11, 2019. Therefore, the tenant is within the ten day

time limit under the *Act*. The onus, therefore, shifts to the landlord to justify the basis of the 1 Month Notice.

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement. Rent is due on the first day of each month, as per the written tenancy agreement. Residential Tenancy Policy Guideline 38 states that “three late payments are the minimum number sufficient to justify a notice...” Both parties agreed that the tenant was late paying rent more than three times during this tenancy. Accordingly, I find that the tenant was repeatedly late paying rent. I find that the landlord’s 1 Month Notice was issued for a valid reason.

Accordingly, I dismiss the tenant’s application without leave to reapply. I find that this tenancy ended on August 31, 2019, the effective date on the 1 Month Notice. During the hearing, the landlord agreed to an order of possession effective at the end of September 2019. Therefore, I find that the landlord is entitled to an order of possession, effective at 1:00 p.m. on September 30, 2019, pursuant to section 55 of the *Act*. I find that the landlord’s 1 Month Notice complies with section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective at 1:00 p.m. on September 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.

The tenant’s application is dismissed without leave to reapply.

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: September 04, 2019

Residential Tenancy Branch