



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEKINOW NATIVE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”), for an extension of time to dispute the One Month Notice, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Two agents for the Landlord (the “Landlord”) were present for the hearing while no one called in for the Tenant during the approximately 10 minutes that the phone line was monitored. The Landlord was affirmed to be truthful in their testimony and confirmed receipt of the Notice of Dispute Resolution Proceeding package. They also stated that they served the Tenant a copy of their evidence by posting it on the Tenant’s door. The Landlord testified that they did not receive any evidence from the Tenant.

As stated in rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*, if a party fails to attend the hearing the hearing may continue, or the application may be dismissed. Although the Tenant did not attend, the hearing continued to determine whether the Landlord is entitled to an Order of Possession based on the One Month Notice in dispute.

Preliminary Matters

Four people were named as tenants on the Application for Dispute Resolution. However, upon review of the tenancy agreement I find that only one person was named as the tenant on the agreement. Therefore, I amend the application to remove the three other named parties and name only the one tenant as per the tenancy agreement. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

Issues to be Decided

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

Should the Tenants be granted an extension of time to dispute the One Month Notice to End Tenant for Cause?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Should the Tenants be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy. The tenancy started on March 1, 2015. Rent in the amount of \$660.00 is due on the first day of each month. A security deposit of \$500.00 was paid at the start of the tenancy. A copy of the tenancy agreement was submitted into evidence by the Landlord.

The Landlord testified that they served the Tenant with a One Month Notice on June 27, 2019 by posting the notice on the Tenant's door. A copy of the One Month Notice was submitted into evidence and although dated June 10, 2019, the Landlord confirmed that it was not served until June 27, 2019.

The One Month Notice states the following as the reason for ending the tenancy:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The Landlord stated that the Tenant had pets in the rental unit despite not having authorization to do so. They also noted that there was a no pets policy for the rental unit. The Landlord submitted an addendum to the One Month Notice in which they reference complaints received regarding pets in the rental unit and a clause of the tenancy agreement which outlines that pets and animals are prohibited.

The Landlord noted that rent for September 2019 was not paid and that they are therefore seeking a 2-day Order of Possession.

Analysis

Section 47 of the *Act* states that a tenant has 10 days in which to dispute a One Month Notice. I accept the testimony of the Landlord that the One Month Notice was posted on the Tenant's door on June 27, 2019. As per the deeming provisions of Section 90 of the *Act*, the Tenant is deemed to have received the One Month Notice 3 days later, on June 30, 2019. As such, I find that the Tenant had 10 days from this date to apply to dispute the notice.

The Tenant filed the Application for Dispute Resolution on July 19, 2019 which is beyond the 10 days allowable under the *Act*. Although they applied for an extension of time to dispute the One Month Notice, they did not attend the hearing to present any testimony or evidence as to why they were not able to apply in the time provided by the *Act*. As the Tenant did not attend the hearing based on their application and did not apply in time, I dismiss the Tenant's application, without leave to reapply.

Therefore, I find that Section 47(5) of the *Act* applies as follows:

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

Upon review of the One Month Notice, I find it to comply with the form and content requirements of Section 52 of the *Act*. Therefore, pursuant to Section 55 of the *Act* I find that the Landlord is entitled to an Order of Possession. I grant the Landlord a 2-day Order of Possession to be served upon the Tenant.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

Pursuant to Section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. 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.

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 23, 2019

Residential Tenancy Branch