



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Ten-Day Notice") pursuant to section 46; and,
- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 47.

The landlord attended this reconvened hearing. The landlord had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenants did not attend this reconvened hearing. I kept the teleconference line open for the duration of the hearing to allow the tenants the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenants.

Preliminary Matter – Non-Appearance of Tenant at the Hearing

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the applicant tenants did not attend the hearing, and in the absence of any evidence or submissions, I order the tenants' application be dismissed without leave to re-file.

Issue(s) to be Decided

Are the tenants entitled to cancellation of the landlord's Ten-Day Notice pursuant to section 46?

Are the tenants entitled to cancellation of the landlord's One Month Notice pursuant to section 47?

Is the landlord entitled to an order of possession pursuant to section 55?

Background and Evidence

The landlord testified that the tenancy started in September 2019. The initial monthly rent was \$745.00 and the tenant paid a \$342.50 security deposit. The current monthly rent is \$861.00.

The landlord testified that he issued the One Month Notice on July 8, 2019. The landlord testified that the One Month Notice was served by registered mail on July 8, 2019. The landlord provided the registered mail tracking number which is referenced on the first page of this decision. The One Month Notice stated the following as grounds for the notice:

- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupant; or,
 - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord testified that tenant M.M. damaged the door of another occupant on July 6, 2019. The landlord provided photographs showing damage to the door and the doorframe. The landlord testified that the police arrested the tenant as a result of this incident. The landlord testified that the occupant was very traumatized by this incident and this incident has caused the occupant to move out.

The landlord posted the Ten-Day Notice on the tenants' door on August 8, 2019. The Ten-Day Notice stated unpaid rent of \$361.00 as of August 1, 2019. The landlord testified that the tenants have recently paid the outstanding rent for August 2019. The landlord testified that the tenants have not paid rent for September 2019.

Analysis

The tenants have made an application to cancel the landlord's One Month Notice and that application has been dismissed. Section 55 of the *Act* states that when a tenant's application to cancel a notice to end tenancy for cause is dismissed, I must grant the landlord an order of possession if the landlord has issued a notice to end tenancy in compliance with the *Act*. I find the form and content of the One Month Notice does comply with section 52 of the *Act*.

Furthermore, section 47(1)(e) of the *Act* permits a landlord to end a tenancy if a tenant has:

...engaged in illegal activity that

- (i) has caused damage to the landlord's property,
- (ii) has adversely affected as adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

Based on the landlord's undisputed testimony, I find that the tenant M.M. damaged the door of another occupant on July 6, 2019 and the police arrested the tenant as a result of this incident. I find that this conduct was an illegal activity and that this conduct damaged the landlord's property, adversely affected the quiet enjoyment and security of another occupant and it jeopardized the lawful right of another occupant.

Accordingly, I find the landlord is entitled to an order of possession effective **two days after service on the tenants**.

Conclusion

I order the tenants' application be dismissed without leave to reapply.

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenant. If the tenants fail to comply with this order, the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 12, 2019

Residential Tenancy Branch