



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CREATIVE CENTRE SOCIETY FOR MENTAL
WELLNESS and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPN

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession.

The landlord was represented at the hearing by an agent who gave affirmed testimony and called 1 witness who also gave affirmed testimony. The tenant attended, gave affirmed testimony, and was assisted by a support person who acted as an Advocate for the tenant.

The parties were given the opportunity to question each other and the witness and to give submissions.

No issues with respect to service or delivery of documents or evidence were raised and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on October 31, 2013 and the tenant still resides in the rental unit. Rent in the amount of \$375.00 per month is payable on the 1st day of each month and there are currently no rental arrears.

At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$215.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on June 12, 2019 the landlord's agent inspected the rental unit and the tenant was lying in his room with a female friend. There was evidence, being heavy smell of cannabis smoke in the air as well as an ashtray beside the bed and remnants of marihuana on tables and in front of windows. The landlord has also provided a "log" of events for this hearing, as well as numerous warning letters.

The landlord's agent personally served the tenant with a One Month Notice to End Tenancy for Cause on June 12, 2019, a copy of which has been provided for this hearing. It is dated June 12, 2019 and contains an effective date of vacancy of August 1, 2019. The reason for issuing it states: Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The Details of Cause(s) section states: "Tenant smoked and continued to smoke in the unit after repeated letters of warning."

The landlord's agents have tried to be patient, and the tenant agreed to move out but has since been extremely belligerent to the landlord's agent and other staff, including foul name calling.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the notice to end the tenancy, and it would be best now for all parties if the tenant moves on.

The landlord's witness testified that smoking is permitted only in designated smoking areas, which is based on BC Housing rules. In this case, multiple inspections have been done of the rental unit, and the witness was present. The witness noticed the smell of cigarettes and sometimes marihuana.

The tenancy agreement contains an Addendum which specifies that: "The Village is a crime free and smoke/drug free building. Any violations of this may result in an end of tenancy." It is signed by 2 parties.

The tenant testified that he smokes outside, and has only smoked in the rental unit 3 years ago.

The tenant has lived in the rental unit for 5 years, and has applied for other units to rent since being served with the notice to end the tenancy, but cannot afford the rental amounts. The tenant promises he won't smoke in the rental unit and asks for one more chance.

Analysis

The *Residential Tenancy Act* is clear – once served with a One Month Notice to End Tenancy for Cause (the Notice), the tenant has 10 days to dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do so the tenant is conclusively presumed to have accepted the end of the tenancy.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. The landlord's agent testified that the Notice was served personally to the tenant on June 12, 2019, and that the tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and I have no such application before me.

The tenant did not dispute the Notice, and therefore I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession.

Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the landlord in that amount and I order that the landlord may retain \$100.00 from the security deposit held in trust, or may otherwise recover it.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that

the landlord be permitted to keep that amount from the security deposit held in trust or may otherwise recover it.

This order is final and binding and may be enforced.

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: October 08, 2019

Residential Tenancy Branch