



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on August 02, 2019 (the “Application”). The Tenant disputed a One Month Notice to End Tenancy for Cause dated July 31, 2019 (the “Notice”).

The Tenant did not appear at the hearing. The Landlord did appear. The Landlord confirmed the Tenant is still living at the rental unit. The Landlord sought an Order of Possession.

The Landlord provided his full legal name which is reflected in the style of cause.

I explained the hearing process to the Landlord who did not have questions when asked. The Landlord was given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. The Landlord provided affirmed testimony.

The Tenant submitted the Notice prior to the hearing. The Landlord submitted evidence prior to the hearing. The Landlord confirmed receipt of the hearing package. The Landlord testified that he served his evidence on the Tenant on an SD card in person September 28, 2019. The Landlord said he did not follow up with the Tenant to make sure she could access the digital evidence. Doing so is required by rule 3.10.5 of the Rules of Procedure (the “Rules”). Given the Landlord did not do so, I have not considered the Landlord’s evidence in this decision.

Issue to be Decided

1. Should the Landlord be issued an Order of Possession under section 55 of the *Act*?

Background and Evidence

The Landlord testified as follows. There is a written tenancy agreement between him, his wife and the Tenant. The tenancy started June 01, 2019 and is for a fixed term ending June 01, 2020. Rent is \$980.00 per month due on the first day of each month. The Tenant paid a \$490.00 security deposit. All three parties signed the agreement.

The Notice is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Landlord. It has an effective date of August 31, 2019. The grounds for the Notice are as follows:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The Landlord testified that he served both pages of the Notice on the Tenant in person on July 31, 2019.

The Landlord testified as follows in relation to the grounds for the Notice.

When the Tenant first moved in, she approached the landlords' son while he was working in the garage. The Tenant was in her underwear and seemed "quite out of it". The landlords found this incident weird and told their son not to talk to the Tenant.

There was an incident where the Landlord was leaving for work and the Tenant was outside smoking. The Landlord got into his car and the Tenant stepped in front of the door so he could not close it. The Tenant eventually stepped back but then made a rude gesture towards the Landlord. The Tenant then proceeded to call the Landlord throughout the day about this. The situation was weird and uncomfortable.

There was a further incident where the Tenant was pacing up and down the driveway at 5:00 a.m. at first in bare feet and then in boots. The Tenant was looking into the landlords' car. Later that day, the Landlord's wife went out to the car and the Tenant was hanging off the electrical cord for the landlords' car. The Landlord's wife told the Tenant she should not do that. The Tenant made some rude remarks towards the Landlord's wife. The Tenant was not in a good state on this date.

Last week, the Tenant was at the end of the driveway speaking loudly to someone making inappropriate and derogatory remarks.

It has been an ongoing struggle with the Tenant.

Analysis

Rule 7.3 of the Rules states that an arbitrator can dismiss an application for dispute resolution without leave to re-apply if a party fails to attend the hearing.

Here, the Tenant failed to attend the hearing and provide evidence regarding her dispute of the Notice. In the absence of evidence from the Tenant regarding the basis for her dispute, the Application is dismissed without leave to re-apply.

Section 55 of the *Residential Tenancy Act* (the "*Act*") requires an arbitrator to issue an Order of Possession if a tenant applies to dispute a notice to end tenancy, the application is dismissed or the notice is upheld and the notice complies with section 52 of the *Act*.

Section 52 of the *Act* outlines the form and content required for a notice to end tenancy issued under the *Act*.

I accept the undisputed testimony of the Landlord about the ongoing issues with the Tenant and am satisfied the Tenant has significantly interfered with or unreasonably disturbed the landlords or another occupant. I therefore uphold the Notice.

I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content.

I have dismissed the Application, upheld the Notice and found the Notice complies with section 52 of the *Act*. Therefore, pursuant to section 55 of the *Act*, I issue the Landlord

an Order of Possession for the rental unit. The Order of Possession is effective two days after service on the Tenant.

Conclusion

The Application is dismissed without leave to re-apply.

The Landlord is granted an Order of Possession pursuant to section 55 of the *Act*. The Order is effective two days after service on the Tenant. The Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and 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 *Act*.

Dated: October 04, 2019

Residential Tenancy Branch