



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY
(1974) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC**

Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an order of possession for cause pursuant to section 55.

The tenant attended the hearing. The landlord was represented by its facilities property manager ("**AW**") and its building property manager ("**CL**"). All were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Background and Evidence

As per the testimony of the parties, the tenancy began on October 7, 2018. Monthly rent is \$375. No security deposit was required by the landlord.

AW testified that the tenant was served with a One Month Notice to End Tenancy for Cause (the "**Notice**") on August 26, 2019 by posting it on the tenant's door. The tenant confirmed that he received the Notice two days later.

The Notice indicates an effective move-out date of September 30, 2019. The tenant continues to reside at the rental property.

The grounds to end the tenancy cited in the Notice were:

- the tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk;

The tenant did not apply to the Residential Tenancy Branch to dispute the Notice.

AW testified that the tenant had threatened or made aggressive gestures towards other residents of the rental property on at least three separate occasions. The landlord provided copies of warning letters issued to the tenant regarding these events. The landlord did not provide any corroborating witness statements or police reports.

AW and CL testified that the tenant never physically assaulted any of the other residents, although in one instance he did "push a chair" towards another resident in an aggressive manner.

The tenant denied that his conduct was aggressive or amounted to bullying. He testified that he believed he had behaved appropriately in the situations documented in the landlord's letters, and that AW and CL were not providing the full story regarding the events.

Analysis

Section 88(g) of the Act states:

How to give or serve documents generally

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

(g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a

landlord, at the address at which the person carries on business as a landlord;

Based on the testimony of the parties, I find that the landlord served the Notice on the tenant by posting it to the door of the rental unit. I find that this meets the service requirement set out at section 88(g) of the Act.

Sections 47(4) and (5) of the Act state:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(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.

Section 47(5) is mandatory, and I do not have discretion as to its application. Based on parties' testimony I find that, although the tenant participated in the hearing, the tenant did not file an application to dispute the notice within 10 days, or at all. Therefore, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice (September 30, 2019) and must move out of the rental unit. As this has not occurred, I find that the landlord is entitled to an order of possession effective November 20, 2019, pursuant to section 55 of the Act.

It is not necessary for me to determine if the tenant acted as alleged by the landlord on the Notice. Such an analysis is not required by section 47.

As such, I make no findings as to the truth of the landlord's allegations about the conduct of the tenant.

Conclusion

I grant an order of possession to the landlord effective November 20, 2019 at 1:00 pm.

I order that the landlord serve a copy of this decision and attached order of possession on the tenant immediately upon its receipt, in accordance with section 88 of the Act.

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: November 06, 2019

Residential Tenancy Branch