



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE BLOOM GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit due to a One Month Notice to End Tenancy for Cause (Notice).

The landlord's agent and the tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, both parties confirmed receiving the other's evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to the Notice?

Background and Evidence

The landlord submitted evidence this tenancy began on September 14, 2015, that current monthly rent is \$375.00, and the tenant paid a security deposit of \$187.50.

The landlord submitted evidence that the tenant was served the Notice, dated July 30, 2019, by registered mail on that date, listing an effective end of tenancy date of August 31, 2019. The tenant confirmed receiving the Notice on July 31, 2019.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such application within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case, August 31, 2019.

The cause as listed on the Notice alleged that the tenant or a person permitted on the property by the tenant had significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord submitted that the tenant had repeatedly played her music too loud and they had received multiple, ongoing complaints about the tenant's noise levels. Despite receiving many noise complaints with warnings to the tenant over several months, the noise has not stopped.

The landlord submitted that they had also received multiple complaints from other tenants in the building that the tenant had banged on their walls.

The landlord's relevant evidence included a copy of the Notice and documentary evidence supporting the cause listed on the Notice, such as the written warnings to correct the breaches.

Tenant's response-

The tenant denied the noise allegations and she said that she is being "railroaded by gangsters" who live in the building.

The tenant said that she did not apply to dispute the Notice as she and the landlord came to an agreement, with the result the Notice was being cancelled.

Landlord's rebuttal-

The landlord denied having any agreement with the tenant.

Analysis

The undisputed evidence is that the tenant received the landlord's Notice on July 31, 2019, the day after it was mailed by the landlord.

The undisputed evidence also is that the tenant failed to make an application for dispute resolution to contest the Notice.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act. I also find the 1 Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

As such, I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find the landlord is entitled to an order of possession of the rental unit, pursuant to section 55 of the Act.

The landlord confirmed that the tenant has paid rent for the month of November 2019. I therefore find it appropriate to issue the order of possession for the rental unit for an effective end of tenancy date of November 30, 2019, at 1:00 p.m.

If the tenant fails to vacate the rental unit by that date after being served with it, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord's application for an order of possession of the rental unit is granted.

The landlord has been issued an order of possession of the rental unit, effective November 30, 2019.

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 18, 2019

Residential Tenancy Branch