



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 16, 2019. Both parties confirmed the landlord served the tenant with the late submitted documentary evidence via email on the same date as this hearing. The landlord explained that he had no excuse in providing the evidence late, but that it was very important to the notice to end tenancy. The tenant confirmed receipt of the email and stated that she was able to read all of the submitted documents and had no issues in proceeding. However, the tenant stated that only two notices were received and that she did not get a copy of the "addendum" document submitted by the landlord. The landlord confirmed that he did not provide this document to the tenant for the hearing, but that it was previously provided to the tenant.

I accept the evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act with the notice of hearing package and the submitted documentary evidence. On the late submission of evidence by the landlord, I find that although late and prejudicial to the tenant, the documentary evidence is material to the matter before me, the 1 month notice. I also note that the tenant did not object as she did confirm receiving it via email and had no issues in proceeding. On this basis, I find that the tenant was sufficiently served and is deemed served as per section 90 of the Act. Extended discussion took place with both parties in which the landlord's evidence was explained to the tenant in detail.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Neither party presented any evidence about this tenancy.

The landlord stated that on September 24, 2019, the landlord served the tenant with the 1 Month Notice dated September 29, 2019. The 1 Month Notice sets out an effective end of tenancy date of October 31, 2019 and that it was being given as:

- the tenant has allowed an unreasonable number of occupants in the unit;
- the tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
- the tenant has caused extraordinary damage to the unit.
- the rental unit must be vacated to comply with a government order.

The details of cause listed are:

City of Chilliwack has done inspection and found this house to be not liveable until certain actions for remedy to be taken. Please vacate the place.

The tenant stated that she received the 1 month notice dated September 29, 2019 posted to the rental unit door on September 29, 2019. The landlord stated that he had proof of service that the 1 month notice was posted on September 2, 2019 in a photographs with a date stamp, but did not provide it.

The landlord stated that during an inspection by the local authority it was discovered that alterations were made to the residence for the purposes of a controlled substance operation.

The landlord has submitted late documentary evidence in the form of a letter dated September 18, 2019 on the local authority letterhead which states in part that "the residential premise is not to be occupied until a re-occupancy permit has been obtained."

The tenant repeatedly argued that she was not made aware of the letter issued by the local authority requesting the premises to be vacant. The landlord argued that as per the landlord's notice provided to the tenant previously, the local authority posted a copy of the letter at the residence and mailed a copy to the landlord. The landlord stated upon receiving the letter, he issued the 1 month notice.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, both parties confirmed that the landlord issued the 1 month notice which the tenant received posted to the rental unit door on September 29, 2019. The landlord provided undisputed evidence that the local authority issued a letter requesting the premises be vacant until a re-occupancy permit be issued by the local authority. Although the tenant repeatedly argued that she was not made aware of the letter by the local authority, the tenant did not dispute the contents of the letter. On this basis, the tenant's application to cancel the 1 month notice is dismissed. The 1 month notice dated September 29, 2019 is upheld.

The landlord is granted an order of possession to be effective 2 days after it is served upon the tenant as the original effective end of tenancy date of October 31, 2019 has passed.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: November 14, 2019

Residential Tenancy Branch