



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC MND MNR MNSD FF

Introduction

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

- an order of possession for cause pursuant to section 55;
- a monetary order for damage to the rental unit pursuant to section 67;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:50 a.m. to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by Xpresspost mail. A mail receipt with a tracking number and delivery confirmation was slip was provided in support of service. The delivery confirmation reflects the mail being delivered on September 24, 2019.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing. The hearing proceeded in the absence of the tenant.

Preliminary Issue – Scope of Application / Amendment

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application for an order of possession for cause, I am exercising my discretion to dismiss the remainder of the issues identified in the landlord's application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

In the application, the landlord named an individual D.M. who is not listed as a tenant on the tenancy agreement. The landlord's confirmed D.M. is not a tenant. The application has been amended to remove D.M.

Issues

Is the landlord entitled to an order of possession pursuant to a One Month Notice to End Tenancy for Cause (the One Month Notice)?

Is the landlord entitled to recover its filing fee?

Background and Evidence

The tenancy began on November 1, 2017. The current monthly rent is \$1050.00 payable on the 1st day of each month. The tenant paid a security deposit of \$525.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on September 1, 2019 the tenant was personally served with the One Month Notice. The effective date of the One Month Notice was October 1, 2019, which is automatically corrected to October 31, 2019 pursuant to section 53 of the Act.

The tenant has not vacated the rental unit as per the effective date of the Notice or filed an application to dispute the One Month Notice.

Analysis

I am satisfied that the tenant was personally served with the One Month Notice on September 1, 2019.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the One Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the One Month Notice.

I find that the One Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the security deposit.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 22, 2019

Residential Tenancy Branch