



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding ABORIGINAL HOUSING SOCIETY OF PRINCE
GEORGE 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 ("Application") under the *Residential Tenancy Act* ("Act") for an order of possession, further to having served the Tenants with a One Month Notice to End Tenancy for Cause dated October 18, 2019 ("One Month Notice").

The Tenant, B.J., and an agent for the Landlord, S.B. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Tenant called into the hearing 11 minutes late; however, I explained to him what evidence the Agent had provided up to that point and allowed him to comment on it.

Preliminary and Procedural Matters

The Agent provided her email address and the Tenant's mailing address at the outset of the hearing and confirmed her understanding that the Decision would be emailed to the Landlord and mailed to the Tenant, and any Orders would be sent to the appropriate Party in this manner.

The Agent said that the Tenants were served with the Application, the Notice of Hearing, and the documentary evidence through registered mail on November 7, 2019, and she provided a Canada Post tracking number as evidence of this.

The Agent said that the Landlord did not receive any evidence from the Tenants. The Tenant, B.J., said he had uploaded documentary evidence to the RTB, but he confirmed that he had not

served these documents on the Landlord. As a result, I find that it would be administratively unfair to consider the Tenants' documentary evidence, because the Landlord did not have an opportunity to review it prior to the hearing. I have not considered the Tenants' documentary evidence.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession pursuant to section 47 of the Act?

Background and Evidence

The Agent confirmed that the fixed term tenancy began on December 1, 2017, with a monthly rent of \$900.00, due on the first day of each month and that the Tenants paid the Landlord a security deposit of \$450.00, and no pet damage deposit.

The Agent submitted a copy of the One Month Notice and confirmed that it was signed and dated October 18, 2019, has the rental unit address, and that it was served by posting it on the rental unit door on October 21, 2019. The One Month Notice had an effective vacancy date of November 30, 2019. The One Month Notice lists the following grounds for the eviction:

- the Tenants have allowed an unreasonable number of occupants in the unit;
- the Tenants or a person permitted on the property by the Tenants have:
 - 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; and
- breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Parties agreed that the Tenants did not dispute the One Month Notice by applying to the RTB for an order to cancel the One Month Notice.

Analysis

Based on the documentary evidence and testimony before me, and pursuant to section 90 of the Act, I find that the Tenants were deemed served with the One Month Notice on October 24, 2019, three days after it was posted to the rental unit door.

Section 47(5) of the Act states that if a tenant who has received a One Month Notice does not make an application for dispute resolution within 10 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

As there is no evidence before me that the Tenants disputed the One Month Notice, I find that they are conclusively presumed under section 47(5) of the Act to have accepted the One Month Notice, and I find that the tenancy, therefore, ended on November 30, 2019. As a result, I find that the Tenants are overholding the rental unit and the Landlord is, therefore, entitled to an Order of Possession pursuant to section 55(2)(b) of the Act. The effective vacancy date has passed, however, the Agent testified that rent for December 2019 has been paid. Accordingly, the Order of Possession will therefore be effective on December 31, 2019 at 1:00 p.m. after service on the Tenants.

Conclusion

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective on December 31, 2019 at 1:00 p.m. **after service of this Order** on the Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible.

Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Tenants are cautioned that if the Landlord has to pursue this route of access to the rental unit that the costs are recoverable from you through the Landlord's application to the RTB for a Monetary Order.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: December 19, 2019

Residential Tenancy Branch