



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GRAND UNION HOTEL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPC, FFL

Introduction

The hearing was convened in response to an Application for Dispute Resolution filed by the Landlord, in which the Landlord applied for an Order of Possession for Cause and to recover the fee for filing this Application for Dispute Resolution.

The Owner stated that on November 29, 2019 the Dispute Resolution Package was personally served to the Tenant. The Tenant stated that he is not certain when he received the aforementioned document, although he believes it was received on January 03, 2020.

Regardless of whether the Dispute Resolution Package was served on November 29, 2019 or January 03, 2020, I find that the Tenant has had ample time to consider the Application for Dispute Resolution, and the hearing proceeded as scheduled.

The Agent for the Landlord stated that a copy of a One Month Notice to End Tenancy for Cause was submitted to the Residential Tenancy Branch when the Application for Dispute Resolution was filed.

The Agent for the Landlord stated that the One Month Notice to End Tenancy for Cause was not served to the Tenant after it was personally served to the Tenant on September 30, 2019. As the One Month Notice to End Tenancy for Cause was not served to the Tenant as evidence for these proceedings, it was not accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in 2015 and that rent was due by the first day of each month.

The Owner and the Tenant both stated they were in possession of a copy of the aforementioned One Month Notice to End Tenancy for Cause, although the Tenant stated that it is hard to read his copy, as he spilled something on it.

The Owner and the Tenant agree that the Landlord has signed the One Month Notice to End Tenancy for Cause and that the One Month Notice to End Tenancy for Cause is in the form created by the Residential Tenancy Branch.

The Owner stated that the One Month Notice to End Tenancy for Cause was personally served to the Tenant on September 30, 2019. The Tenant stated that this document was personally served to him on October 31, 2019.

The Owner stated that the One Month Notice to End Tenancy for Cause has a declared effective date of October 31, 2019. The Tenant stated that he cannot read the declared effective date very well, but he believes it has a declared effective date of December 31, 2019.

The Owner and the Tenant agree that the One Month Notice to End Tenancy for Cause declares that the tenancy is ending because the rental unit is provided to the tenant as a term of employment and that employment has ended.

The Tenant stated that he did not dispute the One Month Notice to End Tenancy for Cause. He stated that he did not understand that he was required to dispute the One Month Notice to End Tenancy for Cause, although he has since read the information on the One Month Notice to End Tenancy for Cause which explains that a tenant must move out of the rental unit by the date set out on the front page of the Notice if they do not dispute the Notice within ten days of receiving it.

Analysis

On the basis of the undisputed evidence, I find that Tenant received the One Month Notice to End Tenancy for Cause, which is the subject of these proceedings.

Section 48(1) of the *Act* authorizes landlords to end a tenancy of a person employed as a caretaker, manager or superintendent of the residential property of which the rental unit is a part by giving notice to end the tenancy if the rental unit was rented or provided to the tenant for the term of his or her employment; the tenant's employment as a caretaker, manager or

superintendent is ended, and the landlord intends in good faith to rent or provide the rental unit to a new caretaker, manager or superintendent.

On the basis of the undisputed evidence, I find that the One Month Notice to End Tenancy for Cause that is the subject of these proceedings was served to the Tenant pursuant to section 48(1) of the *Act*.

I find that there is insufficient evidence to determine whether it was received on September 30, 2019, as the Owner contends, or on October 31, 2019, as the Tenant contends. As there is no evidence to corroborate the testimony of either party, I am unable to determine which party is correct.

Section 48(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 48 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenants dispute the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the One Month Notice to End Tenancy for Cause, I find that the Tenant accepted that the tenancy was ending on the declared effective date of the One Month Notice to End Tenancy for Cause, pursuant to section 48(5) of the *Act*.

I find that there is insufficient evidence to determine whether the One Month Notice to End Tenancy for Cause has a declared effective date of October 31, 2019, as the Owner contends, or that it appears to have a declared effective date of December 31, 2019, as the Tenant contends. As there is no evidence to corroborate the testimony of either party, I am unable to determine which party is correct.

Regardless of whether the declared effective date of the One Month Notice to End Tenancy for Cause is October 31, 2019 or December 31, 2019, I find that the Tenant is now required to vacate the rental unit, pursuant to section 48(5) of the *Act*.

Section 52 of the *Act* stipulates that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

Although the One Month Notice to End Tenancy for Cause that is the subject of these proceedings was not accepted as evidence for these proceedings, and I have not viewed it, I am satisfied, on the basis of the testimony of the parties, that it complies with section 52 of the *Act*.

As the Tenant was served with the One Month Notice to End Tenancy for Cause; he is conclusively presumed to accept that the tenancy ended on the declared effective date of the Notice; and I am satisfied the Notice complies with section 52 of the *Act*, I grant the application for an Order of Possession.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on January 31, 2020. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$100.00, in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order for that amount. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: January 18, 2020

Residential Tenancy Branch