



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNRL, FFL

Introduction

On November 13, 2019, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

D.Y., S.A., and M.M. attended the hearing as agents for the Landlord; however, the Tenants did not attend the 16-minute hearing. All in attendance provided a solemn affirmation.

S.A. advised that the Notice of Hearing and evidence package was served to each Tenant by registered mail on November 22, 2019 (the registered mail tracking numbers are on the first page of this decision). The tracking history indicated that the packages were received on November 27, 2019. Based on this testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were served the Landlord’s Notice of Hearing and evidence package five days after it was mailed.

As per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. As such, this hearing primarily addressed the Landlord’s Application with respect to the Notice, and the other claims were dismissed with leave to reapply. The Landlord is at liberty to apply for any other claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

S.A. advised that the tenancy started on May 1, 2019 and that rent was established at an amount of \$1,000.00 per month. A security deposit of \$500.00 was paid.

She stated that the Notice was served to the Tenants by posting it on their door on July 11, 2019. The reasons the Landlord served the Notice are because the "Tenant or a person permitted on the property by the tenant has 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, and put the landlord's property at significant risk." The effective date of the Notice was August 31, 2019.

The Tenants did not make an Application to cancel the Notice.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Notice served to the Tenants on July 11, 2019, I have reviewed this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I find that this Notice meets all of the requirements of Section 52.

The Landlord's evidence is that the Notice was served on July 11, 2019 by being posted on the Tenants' door. As per Section 90 of the *Act*, the Notice would have been deemed received after three days of being posted. According to Section 47(4) of the *Act*, the Tenants have 10 days to dispute this Notice, and Section 47(5) of the *Act* states that "*If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), 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.*"

After being served the Notice, the tenth day fell on Wednesday July 24, 2019 and the undisputed evidence is that the Tenants did not make an Application to dispute this Notice by

that date. I find it important to note that the information with respect to the Tenants' right to dispute the Notice is provided on the second page of the Notice.

Ultimately, as the Tenants did not dispute the Notice and as there was no evidence provided corroborating that the Tenants had any extenuating circumstances that prevented them from disputing the Notice, I am satisfied that the Tenants are conclusively presumed to have accepted the Notice. As such, I find that the Landlord is entitled to an Order of Possession. I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants.

As the Landlord was successful in these claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. Pursuant to Sections 67 and 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of this debt outstanding.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. This Order must be served on the Tenants by the Landlord. Should the Tenants 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: January 14, 2020

Residential Tenancy Branch