



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1072502 BC LTD
and [tenant name suppressed to protect privacy]

AMENDED DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened as the result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit pursuant to a One Month Notice to End Tenancy for Cause (Notice) issued to the tenant and for recovery of their filing fee paid for this application.

The landlords attended the hearing; the tenant did not attend.

The landlord testified that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on November 8, 2019. The landlord supplied the receipt showing the tracking number of the registered mail, as reflected on the style of cause page in this decision and said they were mailed to the rental unit address.

Based upon the submissions of the landlord, I accept the tenants were served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenants' absence.

The landlords were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural Matter-

The application lists the name of a corporation; however, the written tenancy agreement shows the landlords to be of the two parties attending the hearing. I find it appropriate to amend the name of the landlord to those of the attending landlords. The order of possession of the rental unit will reflect those two names.

Although the matter was not raised in the hearing by the landlords, I find it appropriate to amend their application for dispute resolution, in which they listed an incomplete rental unit/dispute address. That change is reflected on the style of cause page of this Decision as well as the monetary order and order of possession of the rental unit.

Issue(s) to be Decided

Are the landlords entitled to an order of possession of the rental unit and for recovery of their filing fee paid for this application?

Background and Evidence

The landlord submitted that a written tenancy agreement showing this tenancy began on July 10, 2017, that monthly rent is \$1,000.00 and that the tenant paid a security deposit of \$500.00.

The landlord submitted evidence that the tenant was served the Notice, dated October 3, 2019, on that date by personal service, listing an effective end of tenancy date of November 4, 2019.

The landlord submitted that their business partner served the tenant; however, they both witnessed the service.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenants did not file such application within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

The causes as stated on the Notice alleged that the tenant has significantly interfered with or unreasonable 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, has engaged in illegal activity that has or is like to damage the landlord's property, adversely affected the quiet enjoyment, security, safety, or physical well-being of another occupant, and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord submitted that the tenant has not vacated the rental unit and did pay the monthly rent for December 2019.

The landlord submitted that the tenant has violated numerous city by-laws, that they are being fined for those breaches, and that they are getting complaints from other tenants.

The landlord described that the tenant is bringing in trash and items she picks up off the streets and leaves it about the property, leading to the complaints and by-law fines.

The landlord's relevant evidence included a copy of the Notice, and documentary and photographic evidence supporting the cause listed on the Notice.

I have no evidence before me that the tenant filed an application in dispute of the Notice.

Analysis

The undisputed evidence is that the tenant was served with the landlords' Notice on October 3, 2019.

The undisputed evidence also is that the tenant failed to make an application for dispute resolution to contest the Notice.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act. I also find the 1 Month Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

As such, I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find the landlord is entitled to an order of possession of the rental unit, pursuant to section 55 of the Act.

The landlord confirmed that the tenant has paid rent for the month of December 2019. I therefore find it appropriate to issue the order of possession for the rental unit for an effective end of tenancy date of December 31, 2019, at 1:00 p.m.

If the tenant fails to vacate the rental unit by that date after being served with it, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I grant the landlord a monetary order in the amount of \$100.00, for their successful application, as recovery of their filing fee.

The landlords may elect to deduct \$100.00 from the tenant's security deposit in satisfaction of their monetary award instead of enforcing the monetary order.

Conclusion

The landlord's application for an order of possession of the rental unit is granted.

The landlord has been issued an order of possession of the rental unit, effective December 31, 2019.

The landlord is granted a monetary order in the amount of \$100.00 for recovery of their filing fee.

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: December 23, 2019~~

Amended and Dated: January 3, 2020

Residential Tenancy Branch