



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC

Introduction

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

- More time to file their application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 66; and
- Cancellation of the 1 Month Notice pursuant to section 47.

This matter was set for hearing by telephone conference call at 11:00 am on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time were the agents for the corporate respondent.

Background and Evidence

The agents for the corporate landlord gave undisputed evidence that they issued the 1 Month Notice dated November 13, 2019. The reasons provided on the notice for the tenancy to end is that:

Tenant has engaged in illegal activity that has, or is likely to:

- *damage the landlord's property;*
- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

The agents gave evidence that the tenant instigated a violent altercation with another individual that resulted in the other party begin stabbed.

Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

Therefore, as the applicant did not attend the hearing by 11:10 am, and the respondent appeared and was ready to proceed, I dismiss the tenant's claim without leave to reapply.

Section 55 of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the 1 Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the personal landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I accept the evidence of the landlord that the tenant has engaged in an illegal act, instigating a violent altercation, that has resulted in a serious jeopardy of the rights of the other occupants of the building and adversely affected the safety and security as it ended with someone being stabbed. Accordingly, I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

Conclusion

The tenant's application is dismissed without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises 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: February 7, 2020

Residential Tenancy Branch