



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, MNDCT

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), issued pursuant to section 47;
- an order for the landlord to comply with the *Act*, regulation and/or tenancy agreement pursuant to section 62; and
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*.

The respondents (landlords PB and JB) and Witness TC called into this teleconference at the date and time set for the hearing of this matter. The applicant (tenant) did not, although I waited until 1:44 p.m. to enable him to connect with this teleconference hearing scheduled for 1:30 p.m.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the respondents and I were the only persons who had called into this teleconference.

The landlords confirmed they received the Notice of Hearing and evidence from the tenant around Christmas. The landlords affirmed they served their evidence to the tenant. I find that all parties have been served with the required documents.

Rules 7.1, 7.2 and 7.3 of the Rules of Procedure provide as follows:

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

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 re-apply.

Accordingly, in the absence of any attendance at this hearing by the applicant I order the application dismissed without leave to reapply.

I note that section 55 of the *Act* requires that when a tenant submits an application for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue to be Decided

1. Are the landlords entitled to an Order of Possession?

Background and Evidence

Landlord PB affirmed the tenancy started on March 16, 2018. Rent is \$700.00 per month, due on the first day of the month. At the outset of the tenancy a security deposit of \$337.50 was collected and the landlords still hold it in trust. A copy of the tenancy agreement was submitted into evidence. The tenant continues to reside at the rental property.

A copy of the Notice was provided. The reason to end the tenancy is: "Tenant or a person permitted on the property by the tenant had significantly interfered with or

unreasonably disturbed another occupant or the landlord.” The details of cause section of the Notice is also completed with four handwritten lines. The Notice was served in person on December 09, 2019. The effective date of the Notice is January 31, 2020.

The tenant affirmed, in the application for dispute resolution form (RTB Form 12), the Notice was received in person. This application was filed on December 23, 2019.

Analysis

I have reviewed all the evidence and find the tenant received the Notice on December 09, 2019 in accordance with section 88 (a) of the Act. I find the form and content of the Notice is valid pursuant to section 52 of the Act.

Sections 47(4) and (5) of the Act state:

- (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.
- (5) 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
 - (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
 - (b) must vacate the rental unit by that date.

The tenant’s application has been dismissed because he did not attend the hearing to present his claim. Furthermore, I find that the tenant filed the application to dispute the Notice after the 10 days deadline of section 47(4) of the Act.

Pursuant to section 47(5)(a) the tenant is conclusively presumed to have accepted the end of the tenancy on December 31, 2019 and must vacate the rental unit. As this has not occurred, I find that pursuant to section 55(2)(b) of the Act, the landlords are entitled to an order of possession effective two days after service.

I warn the tenant that may be liable for any costs the landlords incur to enforce the order of possession.

Conclusion

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

I find the tenancy ended on December 31, 2019. I grant an Order of Possession to the landlords effective **two days after service of this order** on the tenant. Should the tenant 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: March 02, 2020

Residential Tenancy Branch