



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC MNDCL-S FF

Introduction

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

- an order of possession for cause pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:45 a.m. to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on December 23, 2019, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenants by Priority Post mail. A Priority Post mail receipt and tracking number was provided in support of service. As per the tracking information provided, the mail package was delivered and signed for on December 24, 2019.

Based on the above evidence, I am satisfied that the tenants were served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Preliminary Issue – Scope of Application

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants' application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

Issues

Is the landlord entitled to an order of possession pursuant to a One Month Notice to End Tenancy for Cause (the One Month Notice)?

Is the landlord entitled to recover its filing fee?

Background and Evidence

The tenancy began on October 1, 2019. The current monthly rent is \$1200.00 plus \$150.00 for utilities payable on the 1st day of each month. The tenants paid a security deposit of \$600.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that on December 4, 2019 he served the tenants with the One Month Notice by regular mail and a copy was also sent by registered mail on December 6, 2019. A registered mail receipt and tracking number was provided in support of service. The effective date of the One Month Notice was January 31, 2020.

The tenants have not vacated the rental unit as per the effective date of the Notice or filed an application to dispute the One Month Notice.

Analysis

I am satisfied that the tenants were deemed served with the One Month Notice on December 11, 2019, five days after being sent by registered mail, pursuant to sections 88 & 90 of the Act.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a

dispute application within ten days of receiving the One Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the One Month Notice.

I find that the One Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. **This amount can be retained from the security deposit.**

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenants. 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: February 24, 2020

Residential Tenancy Branch