



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING AND HEALTH
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

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

- an Order of Possession for cause, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord's two agents, landlord ML ("landlord") and "landlord JK" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the residential coordinator and landlord JK confirmed that he was the building supervisor and that both agents had permission to represent the landlord company named in this application.

The landlord testified that he personally served the tenant with the landlord's application for dispute resolution hearing package on January 8, 2020. Landlord JK confirmed that he witnessed this service. In accordance with section 89 of the *Act*, I find that the tenant was personally served with the landlord's application on January 8, 2020.

The landlord testified that he personally served the tenant with the landlord's 1 Month Notice to End Tenancy for Cause, dated October 31, 2019 ("1 Month Notice") on the same date. Landlord JK confirmed that he witnessed this service. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord's 1 Month Notice on October 31, 2019.

Issue to be Decided

Is the landlord entitled to an Order of Possession for cause?

Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions are reproduced here. The important and relevant aspects of the landlord's claim and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on March 27, 2017. Both parties signed a written tenancy agreement and a copy was provided for this hearing. Monthly rent in the current amount of \$375.00 is payable on the first day of each month. A security deposit of \$187.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. The rental unit is single room occupancy unit, with a shared kitchen and bathroom with other tenants in the rental building.

The landlord's 1 Month Notice indicates an effective move-out date of November 30, 2019. The landlord issued the notice for the following reason:

- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord seeks an order of possession based on the 1 Month Notice.

The landlord testified that the tenant breached a material term of the tenancy agreement by allowing his girlfriend to reside as an occupant in the rental unit without the landlords' permission. He stated that the tenant and his girlfriend have domestic violence abuse, which causes a disturbance and loss of quiet enjoyment to other tenants in the rental building. He confirmed that this has resulted in numerous police calls and police presence at the rental unit. He maintained that the police recommended that the landlord serve a notice to end tenancy, the failure of which would result in repeated police attendance at the rental unit. He claimed that the last police call for this same issue, was two days prior to this hearing date.

The landlord pointed to paragraphs 1 and 24 of the parties' written tenancy agreement, which states that only the tenant can occupy the rental unit, no other occupants. He said that any other occupants would require the landlord's written permission first. He submitted that the tenant did not request written permission for his girlfriend to be an occupant at the rental unit. He maintained that this is a single room occupancy unit, with a shared kitchen and bathroom with other tenants. He confirmed that section 3 of

the rental building rules, which were provided with the tenancy agreement for this hearing, states that visitors who are disruptive, threatening, abusive or cause a loss of quiet enjoyment will be barred from the rental property. He said that the tenant's girlfriend was barred from the rental building, but the tenant has been sneaking her in to the rental unit.

The landlord provided copies of four letters that were issued to the tenant, from May to July 2019. The letters caution an end to the tenant's tenancy for having his girlfriend as an additional occupant at the rental unit, without the landlord's written permission. The letters also notify the tenant that his girlfriend is not permitted to live there, that she is barred from the rental property, that he continues to sneak her on to the rental property, and that their domestic violence issues are causing a loss of quiet enjoyment to other tenants and repeated police presence at the rental building.

Analysis

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice was given by the landlord.

Paragraph 1 of the parties' written tenancy agreement indicates that the tenant may not have additional occupants residing in the rental unit aside from the person listed in the tenancy agreement. I find that only the tenant is listed in the tenancy agreement, no other occupants.

Paragraph 24 of the parties' written tenancy agreement indicates that the tenant must first obtain written permission from the landlord, for occupants to reside in the rental unit with him. It further states that if the tenant wants a guest to stay for up to 7 days in any month, written permission from the landlord must be obtained first. I find that the tenant did not have written permission to have any other occupants, including his girlfriend, reside with him in the rental unit.

Paragraphs A.1 and A.5 of Schedule A to the parties' written tenancy agreement discusses material covenants and occupants. They state that the tenant was chosen because of risk of homelessness and if the tenant's family size changes, the landlord has a right to terminate the tenancy agreement, due to the importance of family size and income in determining appropriate housing and rent. I find that this is material to this tenancy, as this is a small, single room occupancy unit, suitable for one occupant.

I find that the tenant had notice of the above paragraphs of his tenancy agreement and when he signed it on March 27, 2017. I find that the tenant was given at least four written warnings from the landlord from May to July 2019, about breaching his tenancy agreement, which could end his tenancy. I find that the tenant did not respond to these breach letters and continued with the same behaviour.

The landlord provided undisputed evidence that the tenant's girlfriend occupant caused a loss of quiet enjoyment to other tenants in the rental building, due to the domestic violence, abuse, and disturbance. This resulted in repeated police calls and police presence at the rental unit. The landlord noted that the police were called for the same issue as recently as two days prior to this hearing.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on November 30, 2019, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by November 30, 2019.

Accordingly, I grant the landlord's application to obtain an order of possession based on the 1 Month Notice. I find that the tenant is entitled to possession of the rental unit until the end of March 2020, as the landlord confirmed that the tenant provided a rent cheque for March 2020, but the landlord chose not to cash it and await the outcome of this hearing. Accordingly, I find that the landlord is entitled to an Order of Possession, effective at 1:00 p.m. on March 31, 2020, pursuant to section 55 of the *Act*. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on March 31, 2020**. Should the tenant or any other occupants 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: March 06, 2020

Residential Tenancy Branch