



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0986305 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on March 7, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice for Cause dated February 13, 2020 (the "One Month Notice"); and
- an order granting recovery of the filing fee.

The hearing was scheduled for 11:00 AM on April 20, 2019 as a teleconference hearing. G.W. appeared on behalf of the Landlord at the appointed date and time of the hearing. No one appeared for the Tenants. The conference call line remained open and was monitored for 13 minutes before the call ended. 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 G.W. and I were the only persons who had called into this teleconference.

G.W. testified the Application and documentary evidence package was served to the Tenants by registered mail on March 19, 2020. The Landlord submitted a registered mail receipt confirming the mailing. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Application and documentary evidence on March 24, 2020, the fifth day after the registered mailing.

G.W. was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However,

only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession based on a One Month Notice for Cause, pursuant to Section 55 of the *Act*?
2. Is the Landlord entitled to the return of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

G.W. testified that the tenancy began on April 1, 2015. Currently rent in the amount of \$1,040.00 is due to the Landlord each month. The Tenants paid a security deposit in the amount of \$500.00 which the Landlord continues to hold. The Landlord submitted a copy of the tenancy agreement in support.

G.W. stated that the Landlord has had ongoing complaints regarding the Tenants and their guests making noise, damaging the property, physical altercations, and having regular police contact. G.W. stated that he has received several noise complaints from other occupants outlining how they are being impacted by the Tenants' actions. The Landlord provided a copy of a complaint letter in support. G.W. stated that some occupants have moved out as a result of the unreasonable disturbances caused by the Tenants and his guests.

For the above-mentioned reasons, the G.W. stated that he served the Tenants with the One Month Notice on February 13, 2020 with an effective vacancy date of March 13, 2020 by posting it to the Tenants' door on February 13, 2020. The Landlord provided a proof of service in support. The Landlord's reasons for ending the tenancy on the One Month Notice are;

"Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant or the landlord, and put the Landlord's property at significant risk."

"Tenant or a person permitted on the property by the 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.”

“Tenant or person permitted on the property by the Tenant has caused extraordinary damage to the unit or property.”

G.W. stated that the Tenants continue to occupy the rental unit; therefore, the Landlord is seeking an order of possession in relation to the One Month Notice. If successful, the Landlord is also seeking the return of the filing fee.

Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause.

The Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated on February 13, 2020 with an effective vacancy date of March 13, 2020, by posting it to the Tenants' door on February 13, 2020. Based on the oral and written submissions of the Landlord, and in accordance with sections 88 and 90 of the Act, I find that the Tenant are deemed to have been served with the One Month Notice on February 16, 2020.

Section 47(4) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 10 days after the date the Tenant receives the Notice. Section 47(5) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

As I have found that the Notice was deemed served on the Tenants on February 16, 2020 and that there is no evidence before me that the Tenants applied for Dispute Resolution within 10 days or applied for more time to cancel the Notice, I find that the Tenants are conclusively presumed to have accepted the end of his tenancy on the corrected effective date of March 31, 2020.

I further find that the Landlord has provided sufficient evidence to demonstrate that the Tenants have significantly interfered with or unreasonably disturbed another occupant or the Landlord.

As G.W. stated that the Tenants have paid rent for the month of April 2020 and have not moved out of the rental unit, I find that the Landlord is entitled to an Order of Possession effective at 1:00 PM on April 30, 2020, which must be served on the Tenants.

As the Landlord was successful with the Application seeking an order of possession for cause, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application which they may deduct from the Tenant's security deposit.

Conclusion

The Tenants are conclusively presumed to have accepted the end of the tenancy for cause. Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective at 1:00 PM on April 30, 2020 after notice is served 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: April 20, 2020

Residential Tenancy Branch