



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on February 21, 2020 (the "Application"). The Tenant applied to dispute a One Month Notice to End Tenancy for Cause dated January 28, 2020 (the "Notice")

The Agent appeared at the hearing for the Landlord. The Agent confirmed the Landlord is seeking an Order of Possession based on the Notice. The Advocate appeared for the Tenant. The Advocate advised that she was expecting the Tenant to appear. The Advocate advised she did not have instructions to proceed without the Tenant present. Given this was the Tenant's Application, I waited 10 minutes for the Tenant to appear at the hearing. The Tenant did not call into the hearing within the 10 minutes.

I asked the Advocate whether she wanted to remain on the line or exit the conference call given the Tenant did not call into the hearing. The Advocate advised that she would exit the conference call. Prior to exiting, the Advocate advised that she served the hearing package on the Landlord by registered mail February 27, 2020. The Advocate also advised that the Tenant had only submitted a copy of the Notice as evidence.

The Agent confirmed the Landlord received the hearing package February 28, 2020 and service of the Notice was a non-issue given the Landlord had issued the Notice.

Prior to exiting, the Advocate provided her email address to send the decision to. I obtained the Advocate's phone number so that the Advocate could be contacted if the Tenant called into the hearing while I was hearing from the Landlord on the Notice. The Advocate exited the conference around 11:14 a.m. The hearing proceeded until 11:35 a.m. The Tenant did not call into the hearing during this time.

I explained the hearing process to the Agent. The Agent provided affirmed testimony.

The Agent was given an opportunity to present relevant evidence and make relevant submissions. I have considered the Notice and testimony of the Agent. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?

Background and Evidence

A written tenancy agreement was submitted as evidence and the Agent confirmed it is accurate. The tenancy started April 01, 2012 and is a month-to-month tenancy. Rent is due on the first day of each month.

The Notice was submitted. It is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Agent. It has an effective date of February 29, 2020. The grounds for the Notice are that the:

- Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonable disturbed another occupant or the Landlord and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord

The Agent testified that both pages of the Notice were posted to the door of the rental unit January 28, 2020.

The Agent testified as follows in relation to the grounds for the Notice. The Notice was issued in part due to noise incidents with the Tenant. The Tenant's girlfriend moved into the rental unit without permission. The Tenant and his girlfriend fight and disturb others. The Tenant's girlfriend has been confrontational with security and uses someone else's fob to access the building. The Tenant has been giving out his fob and keys to non-residents of the building despite being told not to. The non-residents are accessing the building.

The Agent sought an Order of Possession effective April 30, 2020.

Analysis

Given the Tenant did not appear at the hearing to provide evidence or explain the basis for the dispute of the Notice, there is insufficient evidence before me as to the basis for the Tenant's dispute. I therefore dismiss the Tenant's dispute of the Notice without leave to re-apply.

The Notice was issued under section 47 of the *Residential Tenancy Act* (the "Act").

The Tenant had 10 days from receipt of the Notice to dispute it pursuant to section 47(4) of the *Act*.

I am satisfied based on the undisputed testimony of the Agent that the Notice was posted to the door of the rental unit January 28, 2020. The Notice was served in accordance with section 88(g) of the *Act*. Pursuant to section 90(c) of the *Act*, the Tenant is deemed to have received the Notice January 31, 2020. The Tenant did not appear at the hearing to rebut the deeming provision of section 90(c) of the *Act*.

The Tenant filed the Application February 21, 2020, past the 10-day deadline of February 10, 2020 for disputing the Notice. The Tenant did not apply for more time to file the dispute. The Tenant did not attend the hearing to explain why the Application was filed late.

I find section 47(5) of the *Act* applies and the Tenant was conclusively presumed to have accepted that the tenancy ended February 29, 2020, the effective date of the Notice. The Tenant was required to vacate the rental unit by February 29, 2020.

Section 55(1) of the *Act* states:

55 (1) 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.

The Tenant's dispute of the Notice has been dismissed without leave to re-apply given the Tenant did not attend the hearing to provide a basis for the dispute. Further, the Tenant was conclusively presumed to have accepted the Notice pursuant to section 47(5) of the *Act*. I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content. The Landlord is entitled to an Order of Possession pursuant to section 55(1) of the *Act*. I issue the Landlord an Order of Possession effective at 1:00 p.m. on April 30, 2020.

Conclusion

The Landlord is issued an Order of Possession pursuant to section 55(1) of the *Act*. The Order is effective at 1:00 p.m. on April 30, 2020. The Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court **SUBJECT TO THE MINISTERIAL ORDER REFERRED TO ON THE LAST PAGE OF THIS DECISION.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: April 23, 2020

Residential Tenancy Branch