



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Victoria Cool Aid Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC**

Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an order of possession for cause pursuant to section 55.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:00 am in order to enable the tenant to call into this teleconference hearing scheduled for 11:10 am. The landlord's agent ("**KV**") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that KV and I were the only ones who had called into this teleconference.

KV testified that the tenant was personally served the notice of dispute resolution package on January 24, 2020 and the supporting evidence package on March 13, 2020. I find that the tenant was served in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Background and Evidence

The parties entered into a written tenancy agreement starting August 8, 2016. Monthly rent is subsidized and is \$375. The tenant paid the landlord a security deposit of \$375, which the landlord continues to hold in trust for the tenant.

KV testified that the tenant was served with the landlord's One Month Notice to End Tenancy for Landlord's Use of the Property (the "**Notice**") on November 24, 2019 via posting it on the door of the rental unit.

The Notice indicates an effective move-out date of December 31, 2019.

The grounds to end the tenancy cited in the Notice were:

- 1) the tenant has allowed an unreasonable number of occupants in the unit/site;
- 2) the 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;
- 3) breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

The tenant did not dispute the Notice.

Analysis

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.

Based on KV's testimony and the Notice before me, I find that the tenant was served with an effective notice. The tenant did not participate in the hearing or file an application to dispute the notice within 10 days (or at all). Therefore, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice (December 31, 2019), and must vacate the unit. As this has not occurred, I find that the landlord is entitled to a two-day order of possession, pursuant to section 55 of the Act.

Residential Tenancy (COVID-19) Order, MO M089 (*Emergency Program Act*) made March 30, 2020 (the “**Emergency Order**”) permits an arbitrator to issue an order of possession if the notice to end tenancy the order of possession is based upon was issued prior to March 30, 2020 (as per section 3(2) of the Emergency Order).

However, per section 4(3) of the Emergency Order, a landlord may not file an order of possession at the Supreme Court of BC unless it was granted pursuant to sections 56 (early end to tenancy) or 56.1 of the Act (tenancy frustrated). The order of possession granted above is not issued pursuant to either section 56 or 56.1 of the Act.

Conclusion

Pursuant to section 55(2)(b) of the Act, I grant an order of possession to the landlord effective two days after service on the tenant.

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 2, 2020

Residential Tenancy Branch