



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding City of Vancouver
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FFL

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; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the hearing package including notice of application and evidence personally on February 2, 2020. Based on the landlord's testimony I find that the tenant was served with the landlord's materials on that date in accordance with sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

This periodic tenancy originally began in 2016. A security deposit of \$187.50 was paid at the start of the tenancy and is still held by the landlord. The rental unit is a suite in a multi-unit building.

The landlord testified that the tenant places their furniture, appliances and possessions in the common hallway of the rental property causing a hazard and blocking access to the emergency doors. The landlord submitted into evidence photos of the items strewn about the common area and copies of correspondence to the tenant advising that storage in the common areas is not permitted. The landlord submitted copies of incident logs showing that multiple warnings were issued to the tenant and that they have continued to ignore the landlord's warnings.

The landlord issued a 1 Month Notice to End Tenancy for Cause dated December 27, 2019 providing the reason for the tenancy to end as the tenant has seriously jeopardized the health and safety and lawful rights of other occupants and the landlord. The landlord posted the 1 Month Notice on the rental unit door on December 27, 2019. The landlord testified that the tenant has not applied to dispute the notice.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant is deemed served with the 1 Month Notice on December 30, 2019, three days after posting, in accordance with sections 88 and 90 of the *Act*. The tenant had 10 days from that date to file an application for dispute resolution. I find that the tenant has failed to file an application for dispute resolution within the 10 days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ends on the effective date of the 1 Month Notice, January 31, 2020.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. I find that the landlord has provided sufficient evidence through testimony and documentary evidence that the tenant's actions in blocking the common hallway and fire escape has caused a serious jeopardy to the health and safety of all other occupants in the rental property.

The landlord issued their 1 Month Notice on December 27, 2019 and filed their application for dispute resolution on January 30, 2020. Therefore, I find that pursuant to section 3(2) of Ministerial Order 89/2020 and section 55(2) of the *Act*, the landlord is

entitled to an Order of Possession. As the effective date has passed I issue an Order of Possession effective two days after service.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$187.50 security deposit in full satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service**. Should the tenant or any occupant 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.

The security deposit for this tenancy is reduced by \$100.00 to \$87.50.

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 3, 2020

Residential Tenancy Branch