



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

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 47 and 55 of the *Act*.
- authorization to recover the filing fee for this application from the tenant pursuant to section 72 of the *Act*.

The landlord NSG attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m.

The landlord testified that the tenant was served the Notice of Dispute Resolution together with the evidentiary package via Canada Post registered mail on March 6, 2020. I find that this satisfied the service requirements set out in sections 88 and 89 of the *Act* and find that the tenant was deemed to have received the documents in accordance with section 90 of the *Act* on March 11, 2020. Canada Post Tracking number is listed on the cover page of this decision.

Rule of Procedure 7.3 states:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. In this case, I proceeded to conduct the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause pursuant to section 55 of the Act?

Is the landlord entitled to the recovery of the filing fee for this application pursuant to section 72 of the Act?

Background and Evidence

The parties entered into a written tenancy agreement in 2015, which was renewed on January 1, 2020. Monthly rent is \$650.00 and is payable on the first of each month. The tenant paid \$250.00 security deposit at the commencement of the tenancy which is held in Trust by the landlord.

The landlord testified that the tenant was served in person with the landlord's One Month Notice to End Tenancy for cause (the "Notice") on January 29, 2020. The landlord testified that the proof of service was filed into evidence and that the service of the Notice was witnessed by a third party.

The Notice indicates an effective move-out date of February 29, 2020. 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) tenant or a person permitted on the property by the tenant has engaged in illegal activity.
 - adversely effect the quiet enjoyment security, safety of the physical well-being of another occupant.
 - jeopardized the health or safety or lawful right of another occupant or the landlord;

Analysis

I accept the landlord's undisputed testimony regarding the issuance of the Notice. Upon review of the One Month Notice dated January 29, 2020 I find the form and content to be in compliance with Section 52 of the *Act*.

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 the landlord's testimony and the Notice before me, I find that the tenant was served with an effective Notice dated January 29, 2020. The tenant did not participate in the hearing or file an application to dispute the Notice within 10 days.

Therefore, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice February 29, 2020 and must vacate the rental unit.

As this has not occurred, I find that the landlord is entitled to an Order of Possession, pursuant to section 55 of the *Act*.

As the landlord has been successful in this application, I grant the landlord a monetary award of \$100.00 for reimbursement of the filing fee under section 72 of the *Act*.

Conclusion

Pursuant to Section 55 of the *Act*, I grant an Order of Possession to the landlord effective **Two days after service of this Order** on the tenant and any other occupants.

Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to Section 72 of the Act, the landlord may retain \$100.00 from the security deposit to recover the filing fee paid for the application for Dispute Resolution.

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: May 04, 2020

Residential Tenancy Branch