



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

OPC

Dispute Codes

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.

The landlord's agents (the landlord) attended the hearing via conference call and provided undisputed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on March 9, 2020. During the hearing the landlord provided the Canada Post Receipt Tracking number as confirmation. The landlord also stated that he was present when Canada Post actually served it. I accept the undisputed evidence of the landlord and find that the tenants were properly served as per sections 88 and 89 of the Act. Although the tenants did not attend, the tenants are deemed served as per section 90 of the Act.

Issue(s) to be Decided

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

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 1, 2016 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated July 1, 2016. The monthly rent is \$900.00 payable on the 1st day of each month. A security deposit of \$450.00 was paid on July 1, 2016.

The landlord seeks an order of possession to end the tenancy for cause and the landlord states, "Too many people have been permitted in the suite. Fire dept concerns re: Health + safety of the premises too much garbage/ storage in suite".

On February 1, 2020, the landlord served the tenant with the 1 Month Notice dated February 1, 2020 in person. The 1 Month Notice sets out an effective end of tenancy date of March 1, 2020 and that it was being given as:

- the tenant has allowed an unreasonable number of occupants in the unit.

The details of cause: *Too many people have been permitted in the suite. Fire Dept. concerns regarding the health & safety of the premises- too many items in suite.*

The landlord provided undisputed testimony that he is always at the rental property and sees so many people living there. The landlord stated that he believes there are 3 additional persons beside the two tenants living there. The landlord stated that he sees people there for at least 10 hours at a time and when he asked the tenants about this the tenants told him that these people would move soon. The landlord stated that none of the people have moved.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the undisputed evidence of the landlord that the tenants were served with the 1 month notice dated February 1, 2020 on February 1, 2020 in person. The landlord was advised that since rent was due on the 1st day of the month that the effective end of tenancy date would be corrected to March 31, 2020 as per the Act.

I also accept the undisputed testimony that the tenants have a total of 5 persons living in the rental unit, which is 3 more than was agreed upon. Although the landlords provided other evidence in relation to an notice of violation, those issues were unrelated to this notice to end tenancy dated February 1, 2020 for having an unreasonable

number of occupants in the rental. On this basis, I find that the landlord has provided undisputed evidence that there are an unreasonable number of occupants in the rental unit. The landlord's 1 month notice is upheld and is granted an order of possession to be effective two days after it is served upon the tenants.

Conclusion

The landlord is granted an order of possession.

The tenants must be served with this order of possession. Should the tenants fail to comply with this order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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