



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

On March 12, 2020, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking an Order to comply pursuant to Section 62 of the *Act*.

The Tenants did not attend the 18-minute teleconference hearing. K.F. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?

- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

K.F. advised that the tenancy started on November 15, 2019. Rent was currently established at an amount of \$674.06 per month and was due on the first day of each month. A security deposit of \$312.50 was also paid by way of being transferred from a previous tenancy; however, the Tenants did not pay the pet damage deposit of \$337.03 as per the current tenancy agreement. A signed copy of the tenancy agreement was submitted as documentary evidence.

She stated that the Notice was served to the Tenants by posting it to their door on February 7, 2020 and a signed proof of service document was submitted as documentary evidence to support this service. The reason the Landlord served the Notice is because the “security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.” The Notice indicated that the effective end date of the tenancy was March 31, 2020.

She advised that the Tenants have not paid the pet damage deposit as required per the tenancy agreement despite numerous text requests for this deposit to be paid. In addition, April or May 2020 rent has not been paid in full.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Notice served to the Tenants on February 7, 2020, I have reviewed this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I find that this Notice meets all of the requirements of Section 52.

The undisputed evidence before me is that the Landlord served the Notice on February 7, 2020 by posting it to the Tenants' door. According to Section 47(4) of the *Act*, the Tenants have 10 days from being deemed to have received this Notice to dispute it, and Section 47(5) of the *Act* states that *"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 is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date."* I find it important to note that this information is provided on the second page of the Notice as well.

As the Tenants were served the Notice on February 7, 2020 and were deemed to have received it on February 10, 2020, the tenth day to dispute the Notice fell on Thursday February 20, 2020. As such, the Tenants must have made this Application by this day at the latest. However, the undisputed evidence is that the Tenants did not make this Application until March 12, 2020. The Tenants were late in making this Application and they did not make a request for more time to do so.

As the Tenants did not dispute the Notice pursuant to Section 47(4) of the *Act*, I find that the Tenants have been conclusively presumed to have accepted the Notice and must vacate the rental unit pursuant to Section 47(5) of the *Act*. Furthermore, as the Tenants did not attend the hearing, I dismiss their Application without leave to reapply.

As the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 88 of the *Act*, and as the Tenants have not complied with the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 52 and 55 of the *Act*.

As the Tenants have not paid rent for April or May 2020 in full, I grant the Landlord an Order of Possession that takes effect **two days** after service of this Order on the Tenants.

Conclusion

Based on the above, I dismiss the Tenants' Application for Dispute Resolution in its entirety.

I grant an Order of Possession to the Landlord effective **two days** after service of this Order on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 11, 2020

Residential Tenancy Branch