



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Homelife Peninsula Property Massed
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 47 and 55 of the *Act*.

The landlord's agent "TV" attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:15 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m.

Rule 7.3 of the Rules of Procedure provides as follows:

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 reapply.

The landlord testified that the tenants were served the Notice of Dispute Resolution together with the evidentiary package via Canada Post mail on April 2, 2020 and by email due to the current state of emergency provisions. I find that this satisfied the service requirements set out in sections 88 and 89 of the *Act* and find that the tenants were deemed to have received the documents in accordance with section 90 of the *Act* on April 7, 2020.

Issue(s) to be Decided

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

Background and Evidence

The parties entered into a written tenancy agreement in 2019. The tenancy commenced on October 1, 2019. Monthly rent is \$1,350.00 and is payable on the first of each month. The tenants paid \$675.00 security deposit at the commencement of the tenancy which is held in Trust by the landlord.

The landlord testified that the tenants were served in person with the landlord's One Month Notice to End Tenancy for cause (the "Notice") on March 24, 2020 by attaching to the rental door.

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

- 1) 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;
 - breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant MR interfered with the quiet enjoyment of other tenants by swearing and his constant aggressive behaviour by banging on the ceiling, playing loud music and disturbing other tenants.

The landlord affirmed that they were requesting the order of possession to protect members in the office and other tenants in the building. The landlord affirmed that three letters have been sent by the property manager informing the tenant MR of his behaviour which have been filed in evidence.

Analysis

I accept the landlord's undisputed testimony regarding the issuance of the Notice. Upon review of the One Month Notice dated March 24, 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 tenants were served with Notice to end tenancy for cause dated March 24, 2020. The tenants did not participate in the hearing or file an application to dispute the Notice within 10 days. Therefore, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice April 30, 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*.

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 tenants and any other occupants.

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 28, 2020

Residential Tenancy Branch