



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP, LRE, MNRT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:46 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord and her agent attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord, landlord's agent, and I were the only ones who had called into this teleconference.

During the hearing, the landlord confirmed the proper name of the landlord as well as the rental address for this tenancy. As it was not opposed, the address and landlord's name on this application was amended to reflect the proper rental address and name of the landlord.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served copies of the tenant's application.

The landlord testified that the 1 Month Notice to End Tenancy for Cause, dated March 1, 2020 (“the 1 Month Notice”) was personally served to the tenant on March 4, 2020. Accordingly, I find that the 1 Month Notice was duly served to the tenant in accordance with section 88 of the *Act*.

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 re-apply.

In the absence of any submissions from the applicant in this hearing, I order the tenant’s entire application dismissed without liberty to reapply.

Issues

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified that this month-to-month tenancy began on June 1, 2016, with monthly rent currently set at \$675.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$325.00, which the landlord still holds.

The landlord issued the notice to end tenancy providing the following grounds:

1. The tenant has allowed an unreasonable number of occupants in a rental unit; and
2. The tenant or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that the tenant resides in a multi-use building with commercial storefronts on the main level with 7 rental units on the second floor where the tenant resides. The landlord testified that they have received multiple complaints about the tenant and his guests, and the noise disturbances from his rental unit.

Analysis

Section 55(1) of the *Act* reads as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

A copy of the 1 Month Notice was submitted by the tenant for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 53 of the *Act* allows the effective date of the 1 Month Notice to be corrected.

Incorrect effective dates automatically changed

53 (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

(3) In the case of a notice to end a tenancy, other than a notice under section 45 (3) [*tenant's notice: landlord breach of material term*], 46 [*landlord's notice: non-payment of rent*] or 50 [*tenant may end tenancy early*], if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement

- (a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the corrected effective date of the 1 Month Notice, April 30, 2020. As the tenant has not moved out, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant.

Conclusion

I dismiss the tenants' entire application without leave to reapply. I find that the landlord's 1 Month Notice is valid and effective as of April 30, 2020.

I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. 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.

Please note: ***Ministerial Order M089*** issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency. Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial 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 12, 2020

Residential Tenancy Branch