



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

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;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and a copy of the notice to end tenancy dated March 2, 2020 via Canada Post Registered Mail on March 30, 2020. Both parties also confirmed the landlord served the tenant with the submitted documentary evidence, a typed 2 page letter by placing it on the tenant's table insider her rental unit door. Neither party raised any service issues. I accept the undisputed affirmed testimony of both parties and find that both parties have been sufficiently served.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?
Is the tenant entitled to recovery of the filing fee?

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.

Both parties confirmed that on March 3, 2020, the landlord served the tenant with the 1 Month Notice dated March 2, 2020 by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of April 15, 2020 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The details of cause listed are:

Strong odors of urine and garbage, L. refused to keep her unit clean.

A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

The tenant has disputed the landlord's claims stating that the rental unit is fine.

Analysis and Conclusion

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.

However, in this case both parties consented to discussions on a settlement.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on October 31, 2020, by which time the tenants will have vacated the rental unit.

The landlord agreed to withdraw the 1 Month Notice dated March 2, 2020.

The tenant agreed to withdraw the application for dispute to cancel the 1 Month Notice dated March 2, 2020.

Both parties agreed that the landlord shall pay \$50.00 equal to ½ of the filing fee paid by the tenant, which both parties agreed constituted a final and binding

resolution of all monetary issues under dispute in this application for dispute resolution.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on October 31, 2020. The landlord is provided with this orders in the above terms and the tenant(s) must be served with this Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. Should the tenant fail to comply with this Order, the Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenant's favour in the amount of \$50.00. I deliver this Order to the tenant in support of the above agreement for use in the event that the landlord does not abide by the terms of the above settlement. The tenant is provided with thes Order in the above terms and the landlord must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 15, 2020

Residential Tenancy Branch