



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

On March 11, 2020, the Landlord submitted an Application for Dispute Resolution requesting an order of possession based on an undisputed One Month Notice to End Tenancy for Cause dated February 29, 2020.

The matter was set for a conference call hearing. The Landlord's agent ("the Landlord") attended the conference call hearing; however, the Tenant did not. The Landlord testified that he served the Notice of Dispute Resolution Proceeding to the Tenant using registered mail sent to the Tenant's address on March 20, 2020. The Landlord provided a copy of the registered mail receipt as proof of service.

I find that the Tenant was served with the notice of hearing in accordance with sections 89 and 90 of the Act. The Tenant is deemed served with notice of the hearing on March 25, 2020 the fifth day after it was mailed.

The hearing proceeded. The Landlord was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began in May 2014 and is on a month to month basis. Rent in the amount of \$375.00 is to be paid to the Landlord by the first day of each month. The Tenant paid a security deposit of \$187.50 to the Landlord.

The Landlord testified that he issued the Tenant a One Month Notice to End Tenancy for Cause (“the One Month Notice”) using registered mail sent on February 29, 2020.

The reasons selected by the Landlord within the One Month Notice are as follows:

Tenant or a person permitted on the property by the Tenant has:

- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Put the Landlord's property at significant risk*

Tenant has engaged in illegal activity that has, or is likely to:

- *Damage the Landlord's property*
- *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord*

The One Month Notice provides that the Tenant must move out of the rental unit by April 1, 2020.

The One Month Notice provides information on the rights of a Tenant. At the top of the form the Notice provides: “You may be EVICTED if you do not respond to this Notice.” The Notice also informs the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice informs the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the effective date set out on page one of the Notice.

The Landlord seeks an order of possession for the rental unit, based on the undisputed One Month Notice to End Tenancy for Cause dated February 29, 2020. The Landlord testified that May 2020, rent was received from the Tenant on a use an occupancy only basis.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received a One Month Notice to End Tenancy for Cause dated February 29, 2020. I find that the Tenant received the One Month Notice on March 5, 2020 the fifth day after it was mailed.

The One Month Notice provided the Tenant with his rights of dispute. If the Tenant believed that the Landlord did not have sufficient proof to support the reasons for ending the tenancy, the Tenant was required to dispute the Notice within 10 Days. The Tenants opportunity to dispute the Notice has expired.

I find that the Tenant did not apply to dispute the One Month Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Section 55 of the Act provides that a Landlord may request an order of possession of a rental unit when a notice to end tenancy is given by a Landlord and the Tenant has not disputed the Notice and the time for making that application has expired.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective at 1:00 pm on May 30, 2020, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to keep \$100.00 from the security deposit of \$187.50 in full satisfaction of the filing fee.

Conclusion

The Tenant received a One Month Notice and did not apply for dispute resolution to dispute the Notice and did not vacate the unit by the effective date of the Notice. The Tenant is presumed under the legislation to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective at 1:00 pm on May 30, 2020, after service on the Tenant.

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