



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL-S, OPC

Introduction

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

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- an Order of Possession, pursuant to section 55;
- a monetary order for unpaid rent or compensation for loss or damage pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant confirmed that he received the landlord's documentary evidence. The tenant did not submit any documentation for this hearing.

Preliminary Issue- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claims regarding the One Month Notice and the and the continuation of this tenancy are not sufficiently related to the landlords monetary

claim to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The landlords monetary claim is unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notice to End Tenancy. I exercise my discretion, accordingly; I dismiss the landlords monetary claim with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to retain all or a portion of the security deposit in partial satisfaction of the claim?

Is the landlord entitled to the recovery of the filing fee for this application from the tenant?

Background and Evidence

The landlord gave the following testimony. The tenancy began on December 15, 2019. The monthly rent of \$1000.00 is due on the first of each month. The tenant paid a security deposit of \$450.00 which the landlord still holds. The landlord testified that she has received countless warning letters and violation fines as a result of the tenant. The landlord testified that she issued a One Month Notice to End Tenancy for Cause on February 25, 2020 with an effective date of March 31, 2020 for the following reasons:

“Tenant has allowed an unreasonable number of occupants in the unit/site

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

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*

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

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord”*

The landlord testified that the tenant has taken on roommates without their permission. The landlord testified that the tenant has visitors coming and going every five minutes from 9pm to 4am every day. The landlord testified that there is a constant flow of people coming and going into the unit and that these people fight, swear, scream and damage

common areas of building. The landlord testified that the tenant has not disputed the notice or the strata fines and therefore should move out. The landlord testified that since being served the notice to end tenancy, the tenant's behaviour has gotten worse. The landlord testified that the tenant has made no attempts to contact her or resolve the matter and that she has lost communication with him since early April.

The tenant gave the following testimony. The tenant testified that its mostly his guests that have caused all the problems and that he has been trying to find a place. The tenant testified that he's trying his best to find a new home but with the COVID-19 pandemic it has been very difficult.

Analysis

At the outset of the hearing, the issue of the tenant not disputing the notice arose. When given the opportunity to explain why he did not dispute the notice, the tenant remained silent. Section 47(4) of the *Act* provides that a tenant who receives a One Month Notice to End Tenancy for Cause has 10 days to dispute the notice. Further, section 47(5) of the *Act* confirms that failure to dispute the notice in the required time period results in the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice. The tenant has not filed an application to dispute the notice.

I have examined the One Month Notice to End Tenancy for Cause dated February 25, 2020 with an effective date of March 31, 2020 and find that it complies with section 52 of the *Act*. Therefore, I grant the landlord an order of possession pursuant to section 55(2)(b) of the *Act*. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlord is also entitled to retain \$100.00 from the security deposit in full satisfaction for the recovery of the filing fee.

Conclusion

The One Month Notice to End Tenancy for Cause dated February 25, 2020 with an effective date of March 31, 2020 is confirmed, it is of full effect and force. The tenancy is terminated. The landlord is granted an order of possession.

The landlords monetary claim is dismissed with leave to reapply.

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: June 12, 2020

Residential Tenancy Branch