



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On July 9, 2020, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, neither Tenant appeared during the 33-minute hearing. All parties in attendance provided a solemn affirmation.

On July 10, 2020, this hearing was scheduled to commence via teleconference at 11:00 AM on August 14, 2020.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:33 AM. Only the Respondent dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I confirmed during the hearing that the Applicants did not dial in and I also confirmed from the teleconference system that the only party who had called into this teleconference was the Landlord.

The Landlord advised that the Tenants did not serve her the Notice of Hearing package until July 27, 2020 and that this does not comply with Rule 3.1 of the Rules of Procedure.

As the Tenants did not attend the hearing, and as they did not serve the Notice of Hearing package in accordance with the Rules of Procedure, I dismiss their Application without leave to reapply.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants entitled to have the Landlord's Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Are the Tenants entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on March 1, 2020. Rent was established at \$900.00 per month and was due on the first day of each month. A security deposit of \$450.00 and a pet damage deposit of \$100.00 were also paid.

She advised that the Notice was served to the Tenants by hand on July 1, 2020 and a signed proof of service document was submitted to corroborate service. Neither party submitted a copy of the Notice for consideration. As I was unable to view the relevant Notice to determine if it complied with Section 52 of the *Act*, in accordance with Rule 3.19 of the Rules of Procedure, I provided direction on requesting late evidence. A copy

of the Notice, that is the subject of this dispute, was requested to be provided from the Landlord as it is essential to the matter at hand. A copy of this Notice was provided by the Landlord during the hearing.

The reasons the Landlord served the Notice are because the “Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord” and “seriously jeopardized the health or safety or lawful right of another occupant or the landlord.” The Notice also indicated that the effective end date of the tenancy was July 31, 2020.

She stated that the Tenants have blocked access to another resident’s unit. She advised that this other resident is a vulnerable person and that access is necessary for this person. She stated that the Tenants continuously make a lot of noise at night, that they use their nail gun at all hours of the night, and that they are generally inconsiderate to their neighbours. She testified that the Tenants are also accumulating a tremendous amount of junk that they store on the property, and that they built a trailer on the property as well. She stated that she has attempted to work with the Tenants and warned them, verbally and in writing. However, the Tenants have not corrected any of their behaviours. She submitted pictures and copies of the warning letters to corroborate her position. She also advised that the Tenants are still in arrears for a portion of August 2020 rent.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord’s One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

As the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, and as the Tenants' Application has been dismissed, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 47 and 55 of the *Act*.

As the Tenants were not successful in this Application, I find that the Tenants are not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I dismiss the Tenants' Application for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord effective **two days** after service of this Order on the Tenants. 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: August 14, 2020

Residential Tenancy Branch