



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding John Howard Society Pacific Region and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for cause pursuant to section 55.

BM, the agent for the landlord, attended the hearing ("the landlord") and had the opportunity to call witnesses and present affirmed testimony and written evidence.

The tenant did not attend the hearing. The hearing process was explained, and the landlord was given an opportunity to ask questions about the process.

I kept the teleconference line open from the scheduled time for the hearing for an additional 15 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

Service

As the tenant did not attend the hearing, I asked the landlord to confirm that the tenant was served with the Notice of Hearing and Application for Dispute Resolution for this hearing.

The landlord's agent testified that he served the tenant with the landlord's notice of this hearing and evidence on August 15, 2020 by posting to the tenant's door. The landlord's agent also testified that he sent the documents by registered mail to the tenant on August 15, 2020 mailed to the tenant's residence, thereby effecting service under section 90 on August 18, 2020. The landlord provided the tracking numbers for

the mailing referenced on the front page and submitted a Proof of Service document in the RTB form.

Section 15 of *Residential Tenancy Policy Guideline #12. Service Provisions* explains the requirement for proof of service, as follows, in part:

Where proof of service is required, the person who actually served the documents must either:

- be available as a witness in the hearing to prove service, or
- provide a signed statement with the details of how the documents were served.

Proof of service personally should include the date and time of service, the location where service occurred, description of what was served, the name of the person who was served, and the name of the person who served the documents.

As the landlord's agent testified to the date and time of service, the method of service, location of service, and the specifics of the documents served, I find that the landlord has proven service of the Notice of Hearing and Application for Dispute Resolution on the tenant.

As such, I find that the tenant was served with the Notice of Hearing and Application for Dispute Resolution in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Background and Evidence

The landlord provided the following uncontradicted testimony as the tenant did not attend the hearing. The tenancy began on date on November 8, 2019 as a month-to-month tenancy. Rent in the amount of \$442.00 is payable on the first day of each month. The tenant remitted a security deposit in the amount of \$221.00 at the start of the tenancy, which the landlord holds. The landlord submitted a copy of the tenancy agreement.

The landlord testified that the tenant was served with the landlord's 1 Month Notice to End Tenancy for Cause ("**Notice**"), dated June 26, 2020 and served that date by

posting to the tenant's door thereby effecting service under section 90 on June 29, 2020.

The Notice states an effective move-out date of July 31, 2020.

The grounds to end the tenancy cited in that Notice were:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. the 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;
3. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
4. tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;

The Notice provided that the tenant may dispute the Notice within ten days of service. The landlord testified the tenant did not file a dispute.

The landlord testified the tenant has engaged in violence and aggression toward the landlord's staff, destruction of property, and "hoarding" resulting in the issuance of the Notice. The landlord submitted supporting documentary evidence including photographs.

The landlord testified that the tenant remains in the unit.

The landlord requested an Order of Possession.

Analysis

I find the tenant is deemed served with the Notice on June 29, 2020.

Sections 47(4) and (5) of the Act state:

- (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit by that date.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice and the tenant did not file an application to dispute the notice within 10 days.

Therefore, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out of the unit. As this has not occurred, I find that the landlord is entitled to a two-day order of possession, pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective two days 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: September 17, 2020

Residential Tenancy Branch