



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, FFT

Introduction

This hearing was scheduled for 11:00 a.m. on this date, via teleconference call, to deal with the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause and obtain monetary compensation from the landlord. The landlord appeared at the commencement of the hearing; however, there was no appearance on part of the tenant despite leaving the teleconference call was left open for at least 15 minutes to give the tenant the opportunity to appear.

The landlord confirmed he was served with the tenant's Application for Dispute Resolution and he was prepared to proceed. Since the tenant did not appear and the landlord was prepared to proceed, I dismissed the tenant's Application for Dispute Resolution without leave to reapply.

The landlord stated he knows the tenant was still occupying the rental unit two days ago but he was uncertain if she has since moved out. The landlord requested an Order of Possession in the event the tenant has not yet vacated the rental unit. Accordingly, I proceeded to determine whether the landlord is entitled to an Order of Possession under section 55(1) of the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

In filing this Application for Dispute Resolution, the tenant indicated she received a Notice to End Tenancy for Cause posted to the door on July 7, 2020; however, the tenant submitted her Application for Dispute Resolution on July 28, 2020 and provided

a copy of a 1 Month Notice to end Tenancy for Cause dated July 20, 2020. The landlord submitted that the 1 Month Notice was served personally upon the tenant on July 20, 2020.

The 1 Month Notice provided to me by the tenant is in the approved form and is duly signed and completed by the landlord. The 1 Month Notice has a stated effective date of August 31, 2020.

The 1 Month Notice indicates several reasons for ending the tenancy, as indicated below:

<input checked="" type="checkbox"/>	Tenant or a person permitted on the property by the tenant has (check all boxes that apply):
<input checked="" type="checkbox"/>	significantly interfered with or unreasonably disturbed another occupant or the landlord.
<input checked="" type="checkbox"/>	seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
<input type="checkbox"/>	put the landlord's property at significant risk
<input type="checkbox"/>	Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
<input type="checkbox"/>	damage the landlord's property
<input type="checkbox"/>	adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
<input type="checkbox"/>	jeopardize a lawful right or interest of another occupant or the landlord.
<input type="checkbox"/>	Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
<input type="checkbox"/>	Tenant has not done required repairs of damage to the unit/site/property/park
<input checked="" type="checkbox"/>	Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

In the details of cause section, the landlord describes a number of issues including smoking in the rental unit. The landlord submitted that the tenancy agreement does not permit smoking in the rental unit, the tenant's granddaughter was smoking marijuana in the rental unit which was unreasonably disturbing the other occupants of the property, and the landlord had given the tenant a warning to cease smoking but the smoking did not stop.

Analysis

Based on the copy of the 1 Month Notice provided to me by the tenant, and the landlord's unopposed submissions, I find the 1 Month Notice was served upon the tenant on July 20, 2020.

Unreasonably disturbing other occupants of the residential property is a basis for a landlord to end the tenancy of the offending tenant under section 47 of the Act. The landlord submits the tenant, or a person permitted on the property by the tenant unreasonably disturbed other occupants of the residential property by smoking. In the absence of anything to the contrary, I accept the landlord's position and I am satisfied the landlord had grounds to end this tenancy by issuing a 1 Month Notice to End Tenancy for Cause under section 47 of the Act.

Section 55(1) of the Act provides as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Upon review of the 1 Month Notice provided to me, I am satisfied that it meets the form and content requirements of section 52 of the Act and I have dismissed the tenant's application to cancel the 1 Month Notice. Accordingly, I find the criteria of section 55(1) have been met and the landlord is entitled to an Order of Possession.

Since the effective date of the 1 Month Notice has passed, I provide to the landlord an Order of Possession effective two (2) days after service upon the tenant in the event the tenant has not already vacated or abandoned the rental unit.

Conclusion

The tenant's application is dismissed in its entirety. The landlord is provided an Order of Possession effective two (2) days after service upon the tenant in the event the tenant has not already vacated or abandoned the rental unit.

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 01, 2020

Residential Tenancy Branch