



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, RP, FFT**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to carry out repairs pursuant to section 32;
- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The landlord attended with her agent LE (“the landlord”). The tenant stated she was representing both tenants; she attended with her agent CM (“the tenant”). The hearing process was explained. The parties were affirmed. The landlord acknowledged receipt of the Notice of Hearing and evidentiary package. No issues of service were raised. I find the tenant served the landlord as required under the *Act*.

I informed the parties that in the event I dismissed the tenant’s application to cancel the Notice issued in compliance with the *Act*, I was required under section 55 of the *Act* to grant an order of possession in favour of the landlord. Section 55 states 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.

Preliminary Issue

At the outset, the tenant stated she intended to move out soon. The parties discussed a settlement before either gave evidence. The tenant said she had received advice from a lawyer “not to say a word” and the lawyer “would help get the security deposit back”.

Notwithstanding, the tenant then suggested a moving-out date and the application of the security deposit to the outstanding rent. During this time, the tenant interrupted the arbitrator several times, saying the arbitrator was “missing the point” and stating that the landlord had behaved badly. The parties appeared to have reached a meeting of the minds on a tentative agreement.

Then, thirteen minutes after the hearing began, the tenant suddenly and without warning, ended the connection. The landlord and I waited on the conference call for ten minutes and the tenant did not call back in. The tenant did not provide evidence or testimony.

The hearing ended after 30 minutes. The tenant did not reconnect.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the applicant tenant did not attend the entire hearing and in the absence of any evidence or submissions on her behalf, I order the tenant’s application dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord provided uncontradicted evidence as the tenant did not remain in the hearing. The landlord testified that the month-to-month tenancy began on Oct 15, 2019. Rent is \$1,400.00 monthly payable on the first of the month. The tenant provided a security deposit of \$700.00 which the landlord holds. The landlord explained that the tenant's unit is below the landlord's home.

The landlord testified to many disturbances caused by the tenant, including loud, upsetting sounds coming from the unit, and the tenant's son urinating outside the unit. As well, the landlord testified the male tenant moved out and the female tenant told her to call 911 if he ever showed up again. Then, without explanation, the male tenant moved back in. The landlord testified she was afraid of the male tenant.

The landlord issued a One Month Notice to End Tenancy for Cause dated July 30, 2020 which listed several causes including unauthorized occupants and significantly interfering with the landlord. The landlord testified she posted the Notice to the tenant's door on July 30, 2020. A copy of the Notice was submitted which is in the RTB form.

The tenant has not vacated the unit. The tenant filed an Application to cancel the Notice on July 31, 2020 within ten days but has failed to attend the entire hearing of the tenant's application.

The landlord requested an order of possession.

Analysis

As the tenant has failed to participate in this hearing after disconnecting from the conference call shortly after it began, and as she has not submitted testimony or evidence, I dismiss the tenant's request to cancel the One Month Notice as well as the other relief requested by the tenant.

Pursuant to section 55(1), the director **must** grant to the landlord an order of possession of the rental unit if the landlord's Notice complies with section 52 and the tenant's application is dismissed.

I determine the landlord's Notice complies with section 52. I have dismissed the tenant's application. I therefore find the landlord is entitled to an Order of Possession.

I award the landlord reimbursement of the filing fee of \$100.00 which may be deducted from the security deposit held by the landlord.

Conclusion

I dismiss the tenant's application without leave to reapply including the tenant's application to set aside the Notice.

I grant the landlord an Order of Possession which is effective two days after service on the tenant.

The landlord must serve this order on the tenant.

If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia enforceable as an order of that Court.

Conclusion

I grant the landlord an order of possession which is effective two days after service on the tenant.

The landlord must serve this order on the tenant.

If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia enforceable as an order of that Court.

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 08, 2020

Residential Tenancy Branch