



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

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

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47.

The landlord attended. The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional fourteen 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.

The landlord testified the landlord was served with the Notice of Hearing and Application for Dispute Resolution. I find the landlord was served in accordance with the *Act*.

-
I informed the landlord 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.

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 attend the hearing.

The landlord testified that the tenancy began on January 15, 2020. Rent is \$2,550.00 and the tenant provided a security deposit of \$1,250.00.

The landlord testified the police have been called multiple times to the unit because of violence, fighting, noise and suspected criminal behaviour. The landlord submitted 7 written letters of complaint from other tenants in the building about the tenant complaining about the noise, arguing, yelling, slamming doors, coming and going of guests frequently all night long, and attendance by the police resulting in the arrest of the tenant. On April 8, April 15 and October 17, 2020, the landlord gave a written letter of warning to the tenant, copies of which were submitted as evidence.

The landlord accordingly issued the One Month Notice dated September 16, 2020 and posted that day on the door of the unit, thereby effecting service on September 19, 2020 under section 90. A copy of the Notice was submitted by the applicant which is in the RTB form.

The causes listed in the Notice were the following:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- Tenant or a person permitted on the property by the 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.
 - Jeopardize a lawful right or interest of another occupant or the landlord.

The tenant has not vacated the unit. The tenant filed an Application to cancel the Notice on September 23, 2020 within ten days but has failed to attend the hearing of the tenant's application.

The landlord requested an Order of Possession.

Analysis

While I have turned my mind to the admissible documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

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

As the tenant has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the One Month Notice.

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 to end tenancy 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.

Conclusion

I dismiss the tenant's application without leave to reapply.

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: November 23, 2020

Residential Tenancy Branch