



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on October 14, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- to cancel a One Month Notice to End Tenancy for Cause dated October 6, 2020 ("the One Month Notice");

The hearing was scheduled for 11:00 AM on December 8, 2020 as a teleconference hearing. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that Landlord and I were the only persons who had called into this teleconference.

Preliminary Matters

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As no one attended the hearing for the Tenant, I dismiss the Tenant's 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 is compliant with the *Act*.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure). However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession in relation to the One Month Notice, pursuant to Section 55 of the *Act*?

Background and Evidence

The Landlord stated the following; the tenancy began on February 15, 2018. The Tenant is required to pay rent in the amount of \$620.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$300.00 which the Landlord continues to hold. The Landlord was uncertain if the Tenant continues to occupy the rental unit.

The Landlord stated that the Tenant has been provided with several written caution notices as well as verbal warnings from the Landlord regarding smoking in the rental unit. The Landlord stated that the Tenant has disregarded the multiple warnings provided and continues to breach the material term of the tenancy agreement and addendum by smoking in the rental unit. The Landlord provided a copy of the caution notices in support.

For the above-mentioned reason, the Landlord stated she served the Tenant with the One Month Notice on October 6, 2020 by posting it to the Tenant's door. The Landlord stated that the One Month Notice has an effective vacancy date of November 15, 2020.

While the Tenant had applied to cancel the One Month Notice, no one attended the hearing to dispute the Landlord's reason for seeking an end to the tenancy.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the *Act*, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

I accept that the Landlord served the Tenant in person with a One Month Notice to End Tenancy for Cause on October 6, 2020 by posting it to the Tenant's door. Pursuant to Section 88 and 90 of the *Act*, the Tenant is deemed to have received the One Month Notice on October 9, 2020.

After receiving the One Month Notice, the Tenant made an Application to cancel the One Month Notice on October 14, 2020. As no one attended the hearing for the Tenant, their Application to cancel the One Month Notice is dismissed without leave to reapply.

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 is compliant with the *Act*.

I find that the One Month Notice complies with the requirements for form and content. I further find the Landlord has provided sufficient evidence in support of the One Month Notice.

As the effective date of the One Month Notice has passed, I find that the Landlord is entitled to an order of possession effective 2 (two) days, after service on the Tenant, pursuant to section 55 of the *Act*. This order should be served onto the Tenant as soon as possible.

Conclusion

The Tenant did not appear at the time of the hearing; therefore, their Application is dismissed in its entirety without leave to reapply.

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. If the Tenants fail to comply with the order of possession it may be filed in 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: December 08, 2020

Residential Tenancy Branch