



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Limerick Apartments Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MNDCT, LRE, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice);
- An order restricting or setting conditions on the Landlord's right to enter the rental unit;
- Compensation for monetary loss or other money owed; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord L.D. (the Agent), who provided affirmed testimony. Neither the Tenant nor an agent acting on their behalf attended. The Agent stated that they were properly served with the Application and the Notice of Hearing by the Tenant and I confirmed that the hearing information contained in the Notice of Hearing was correct. As the Agent attended the hearing on time and ready to proceed based on the hearing information contained in the Notice of Hearing serve don them by the Tenant and there was no evidence before me that the parties had agreed to reschedule the matter, the hearing proceeded as scheduled despite the Tenant's absence pursuant to rule 7.3 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure).

The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be emailed to them at the email address provided in the hearing.

Preliminary Matters

At the outset of the hearing the Agent stated that they had incorrectly recorded the date and time for the hearing after receiving a copy of the Application and the Notice of Hearing from the Tenant and did not become aware of their error until a few days before the scheduled hearing. As a result, the Agent stated that they had not served any of their documentary evidence in support of the issuance of the One Month Notice on the Tenant or submitted it to the Residential Tenancy Branch (the Branch) for my consideration.

I advised the Agent that all of the service timelines set out in the Rules of Procedure had passed, and that I would therefore not allow the Agent to serve documentary evidence on the Tenant for consideration in these matters or to submit documentary evidence to the Branch for my consideration, except a copy of the tenancy agreement and a copy of the One Month Notice which the Tenant sought to cancel, as the Tenant did not submit these documents as required as part of their Application. I advised the Agent that they could also provide affirmed testimony for my consideration during the hearing with regards to both the above noted documents and any other matters they felt relevant to this hearing, which they did.

I requested that the Agent submit a copy of the tenancy agreement and the One Month Notice for my consideration, the contents of which were described to me by the Agent during the hearing, as soon as possible and not later than the end of the day on January 4, 2021, the date of the hearing. As the documents noted above were submitted by the Agent as requested by me during the hearing, I have accepted them for consideration in these matters.

Issue(s) to be Decided

Is the Tenant entitled to cancellation of the One Month Notice, and if not, is the Landlord entitled to an Order of Possession for the rental unit pursuant to section 55 of the Act?

Is the Tenant entitled to an order restricting or setting conditions on the Landlord's right to enter the rental unit?

Is the Tenant entitled to compensation for monetary loss or other money owed?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The Agent stated that one year fixed term tenancy commenced on August 1, 2019, and was set to end on July 31, 2021, after which time the tenancy may continue on a month to month basis. The Agent stated that rent in the amount of \$1,200.00 is due on the first day of each month and that a security deposit in the amount of \$600.00 was paid. The Agent stated that no pet damage deposit was collected as pets are prohibited in the building and under the tenancy agreement.

Upon my request a copy of the written tenancy agreement and the 5 page addendum were submitted by the Agent for my consideration, which match the above noted information.

The Agent stated that they have received frequent complaints from other occupants of the residential premises regarding unusual and aggressive behaviour by the Tenant towards them, and that the Tenant is damaging areas of the residential premises, such as other residents' doors. The Agent stated that the Tenant has also violated building rules and breached material terms of their tenancy agreement by having a dog in the rental unit, smoking and/or vaping in the rental unit, and by having unauthorized roommates move into the rental unit on not less than three occasions.

As a result of the above, the agent stated that a One Month Notice was personally served on the Tenant on September 30, 2020. The Agent stated that the One Month Notice was signed and dated September 30, 2020, has an effective date of October 31, 2020, contains the correct address for the rental unit as the address to be vacated by the Tenant, and that the approved form was used. The Agent stated that the following grounds for ending the tenancy were selected:

- the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- the tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

- the tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so; and
- the tenant has not complied with an order of the director within 30 days of the later of the following dates:
 - (i) the date the tenant receives the order;
 - (ii) the date specified in the order for the tenant to comply with the order.

The Agent stated that reasons for the issuance of the One Month Notice as set out above were listed in point form in the details of cause section. The Agent also stated that rent for the month of January 2021 has been paid in full by the Tenant.

At my request a copy of the One Month Notice was submitted for my review and consideration by the Agent as the Tenant did not submit a copy as part of their Application seeking its cancellation. The One Month Notice submitted by the Agent matches the information provided by the Agent during the hearing as set out above.

No one appeared at the hearing on behalf of the Tenant to provide any documentary evidence or testimony for my consideration.

Analysis

Based on the affirmed testimony of the Agent at the hearing and the Application filed by the Tenant seeking cancellation of the One Month Notice, I accept as fact that the One Month Notice in the documentary evidence before me was personally served on the Tenant on September 30, 2020. I also accept as fact that the terms of the tenancy are as set out in the written tenancy agreement and 5 page addendum submitted for my consideration by the Agent.

Based on the uncontested and affirmed testimony of the Agent at the hearing, the tenancy agreement and addendum, and the One Month Notice in the documentary evidence before me, I am satisfied that the Agent had grounds to end the tenancy under section 47 of the Act as set out in the One Month Notice. As a result, I dismiss the Tenant's Application seeking cancellation of the One Month Notice without leave to reapply.

As the Tenant has paid rent for January and I am satisfied that the One Month Notice complies with section 52 of the Act, I therefore grant the Landlord an Order of

Possession for the rental unit effective at 1:00 P.M. on January 31, 2021, pursuant to sections 55(1) and 68(2)(a) of the Act.

As the Tenant did not appear at the hearing of their own Application, I also dismiss their claims for an order restricting or setting conditions on the Landlord's right to enter the rental unit, compensation in the amount of \$100.00 for monetary loss or other money owed, and recovery of the \$100.00 filing fee without leave to reapply.

Conclusion

The Tenant's Application is dismissed in its entirety without leave to reapply.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective at 1:00 P.M. on January 31, 2021, after service of this Order on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from them by the Landlord.

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: January 4, 2021

Residential Tenancy Branch