



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE SOCIETY OF HOPE and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPQ

Introduction

On October 28, 2020, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit (the “Notice”) pursuant to Section 49.1 of the *Residential Tenancy Act* (the “Act”).

W.P. attended the hearing as an agent for the Landlord, and the Tenant attended the hearing as well. All parties in attendance provided a solemn affirmation.

At the outset of the hearing, the Tenant requested an adjournment as she was not able to obtain evidence for this file because she has been in and out of the hospital. She stated that she was in the hospital in September 2020 and discharged on October 14, 2020. As well, she stated that she was again admitted to the hospital on December 30, 2020 and was discharged on January 17, 2020. She testified that she was attempting to gather her evidence, but she was busy with personal issues and doctor’s appointments. She also acknowledged that she had no excuse for not gathering these documents sooner. She advised that she did not know anyone to ask her for assistance with these documents.

W.P. opposed this adjournment request as the Tenant has had ample opportunity to obtain and submit any documentation, that it is now three weeks past when the tenancy was supposed to end, and that the Landlord has already lost considerable amounts of rent because of it.

Rule 7.9 of the Rules of Procedure provides the applicable criteria for the granting of an adjournment. I acknowledge that the Tenant may have suffered from some medical conditions; however, she has provided insufficient evidence to confirm these hospital visits. Regardless, as she had ample opportunity to gather evidence and submit it, but

did not, as this hearing pertains to a notice to end the tenancy, I find that adjourning the hearing would be prejudicial to the Landlord. As such, I did not grant the Tenant's request for an adjournment.

W.P. advised that he served the Tenant with the Notice of Hearing and evidence package by registered mail on November 2, 2020 and the Tenant confirmed that she received this package. Based on this undisputed testimony, in accordance with Sections 89 and 90 of the Act, I am satisfied that the Tenant was served with the Notice of Hearing and evidence package. Furthermore, as this evidence was served in accordance with the time frame requirements of Rule 3.14 of the Rules of Procedure, I have accepted the Landlord's evidence and will consider it when rendering this Decision.

The Tenant confirmed that she did not provide any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on June 1, 2016, that rent was currently established at a subsidized amount of \$462.00 per month, and that it was due on the first day of each month. A security deposit of \$425.00 was also paid. A copy of the written tenancy agreement was submitted as documentary evidence.

W.P. advised that the Landlord served the Notice by posting it to the door on October 6, 2020. The Tenant advised that she did not receive it for some time after, but W.P.

testified that she contacted the Landlord on October 9, 2020 regarding the Notice. The Tenant confirmed that she received the Notice on or around this date.

The reason that the Landlord checked off on the Notice was because “The tenant no longer qualifies for the subsidized rental unit.” The Notice indicated that the effective end date of the tenancy was December 31, 2020.

W.P. advised that as far back as February 26, 2020, the Landlord had sent multiple letters and emails advising the Tenant that the Annual Income Review application documents were required to ensure that the Tenant still qualified for the subsidized rent. Despite the multiple requests, the Tenant did not provide the necessary documentation even when cautioned that this would result in a termination of the tenancy. In addition, he stated that the Tenant had multiple electronic transfers of money totalling \$5,280.00 into her bank account in May 2020 that were unexplained and needed to be accounted for if she were to qualify for subsidized rent still.

The Tenant cited her health issues to explain why she could not take the appropriate action. As well, she indicated that she had conversations with the building manager about her situation. However, she did not make any submissions pertaining directly to why she did not provide the necessary documentation to the Landlord to qualify for the subsidized rent. However, she testified that the unexplained income was from her allegedly doing other people’s taxes.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I have reviewed the Landlord’s Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

The undisputed evidence before me is that the Tenant received the Notice on October 9, 2020. According to Section 49.1(5) of the *Act*, the Tenant has 15 days after the date she receives the Notice to dispute it. Section 49.1(6) of the *Act* states that “*If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant is conclusively presumed to*

have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.”

As the Notice was received on October 9, 2020, the Tenant would have had until Saturday October 24, 2020 to dispute this Notice. As this was a weekend, the Tenant must have made this Application by Monday October 26, 2020 at the latest. However, the undisputed evidence is that the Tenant did not dispute this Notice.

I am satisfied from the undisputed evidence that the Tenant failed to provide the required documentation to qualify for the subsidized rent. As the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 88 of the *Act*, and as the Tenant did not dispute the Notice, I am satisfied that the Tenant has been conclusively presumed to have accepted the Notice.

As such, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 49.1, 52, and 55 of the *Act*. Consequently, the Order of Possession takes effect at **1:00 PM on January 31, 2021**.

Conclusion

Based on the above, I grant an Order of Possession to the Landlord effective at **1:00 PM on January 31, 2021** after service of this Order on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed 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: January 18, 2021

Residential Tenancy Branch