



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

On October 14, 2020, the Landlords applied for a Dispute Resolution proceeding seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

Both Landlords attended the hearing; however, the Tenant did not attend at any point during the 37-minute hearing. All in attendance provided a solemn affirmation.

They advised that the Notice of Hearing package and some evidence was served to the Tenant by registered mail on October 25, 2020 (the registered mail tracking number is on the first page of this Decision). The tracking history indicated that the package was received on October 28, 2020. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Landlords’ Notice of Hearing package and some evidence. As this evidence was served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, this evidence will be accepted and considered when rendering this Decision.

They also stated that they served the Tenant additional evidence by hand on January 9, 2020. As this evidence was not served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, this late evidence will be excluded and not considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral 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

- Are the Landlords 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.

They advised that the tenancy started on May 15, 2011, that rent was established at an amount of \$683.57 per month, and that it was due on the first day of each month. Neither a security deposit nor a pet damage deposit was paid.

They stated that the Notice was served to the Tenant by hand on August 28, 2020. The reasons the Landlord served the Notice are because the “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, and put the landlord’s property at significant risk.” The effective end date of the tenancy was noted on the Notice as September 30, 2020.

The Tenant did not make an Application to cancel the Notice.

They advised that as far back as June 2020, the Tenant refused to allow the Landlords entry into the rental unit multiple times, after the Landlords had given the proper written notice to enter to conduct fire inspections. When they finally were able enter the rental unit on August 21, 2020, they discovered a major hoarding issue where it was impossible to navigate through the rental unit. The stove was filled with property, there were piles of items throughout the rental unit, and an electrician had refused to complete any repairs due to the horrendous state of the rental unit. Pictures were submitted to support this position.

They stated that in January 2021, it was discovered that the Tenant had been using a hotplate on top of the stove. They submitted that the glass panel and the burners are broken on the stove. The use of this hotplate on top of the stove, with all the property piled up around it, endangers not only the Tenant but other residents of the building.

In addition, they stated that the Tenant had unplugged the fridge with food still in it, which has gone mouldy and is damaging the fridge. They claimed that the Tenant unplugged the fridge due to allegations of other residents stealing her hydro.

Finally, they advised that the Tenant has engaged in multiple fights with the neighbours as far back as May 29, 2020, and the police have been involved in restoring order.

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.

With respect to the Notice served to the Tenant on August 28, 2020, I have reviewed this Notice to ensure that the Landlords have complied with the requirements as to the form and content of Section 52 of the *Act*. I find that this Notice meets all of the requirements of Section 52.

The Landlords' undisputed evidence is that the Notice was served on August 28, 2020 by hand. As per Section 90 of the *Act*, the Notice would have been deemed received immediately. According to Section 47(4) of the *Act*, the Tenant had 10 days to dispute this Notice, and Section 47(5) 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 (4), 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."*

After being served the Notice, the tenth day fell on Monday September 7, 2020, which was a statutory holiday. However, the undisputed evidence is that the Tenant did not make an Application to dispute this Notice by Tuesday September 8, 2020. I find it important to note that the information with respect to the Tenant's right to dispute the Notice is provided on the third page of the Notice.

Ultimately, as the Tenant did not dispute the Notice and as there was no evidence provided corroborating that the Tenant had any extenuating circumstances that prevented her from disputing the Notice, I am satisfied that the Tenants is conclusively presumed to have accepted the Notice.

Furthermore, based on the Landlords' undisputed evidence, I find that they are entitled to an Order of Possession. I grant an Order of Possession to the Landlords effective **two days after service of this Order** on the Tenant.

Conclusion

I grant an Order of Possession to the Landlords effective **two days after service of this Order** on the Tenant. This Order must be served on the Tenant by the Landlords. 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 11, 2021

Residential Tenancy Branch