



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VERNON NATIVE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) issued on October 28, 2020, and to recover the filing fee for this application. The matter was set for a conference call.

Two Agents for the Landlord (the Landlord) attended the conference call hearing; however, the Tenant did not. As the Tenant is the applicants in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in her testimony and was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the 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

- Should the Notice issued on October 28, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the return of their filing fee?

Background and Evidence

The Landlord testified that the tenancy began on January 1, 2019, and that the subsidized rent in the amount of \$543.00 is to be paid by the first day of each month. At the outset of the tenancy, the Tenant paid the Landlord a \$650.50 security deposit.

The Landlord testified that they issued the Notice to the Tenant on October 28, 2020, by leaving it in the Tenant's mailbox. The reasons checked off by the Landlord within the Notice are as follows:

- *Tenant has allowed an unreasonable number of occupants in the unit/site/property/park*
- *Tenant or a person permitted on the property by the tenant has:*
 - *Significantly interfered with or unreasonably disturbed 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.*

The Notice states the Tenants must move out of the rental unit by November 30, 2020. The Notice informed the Tenants of the right to dispute the Notice within 10 days after receiving it.

The Landlord requested the Order of Possession.

Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

Pursuant to section 90 of the Act, I find that the Tenant received the Notice, three days after it was placed in the Tenant's mailbox, on October 31, 2020, and did apply to dispute the Notice. This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing was the Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

7.1 The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 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 re-apply.

Therefore, as the Tenant did not attend the hearing by 9:41 a.m. I dismiss the Tenant's application without leave to reapply.

Section 55(1) of the *Act* states:

Order of possession for the landlord

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.

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the *Act*.

As I have dismissed the Tenants' application, pursuant to section 55 of the *Act*, I must grant the Landlord an order of possession to the rental unit.

Therefore, I find that the Landlord is entitled to an order of possession effective two days after service. 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.

The Tenant is cautioned that costs of such enforcement is recoverable from the Tenant.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant an **Order of Possession** to the Landlord effective not later than **2 days** after service upon the Tenant. The Tenant must be served with this Order. 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: February 2, 2021

Residential Tenancy Branch