



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;

Both parties attended the hearing via conference call and provided testimony. Both parties confirmed the tenant served the landlord by placing the notice of hearing package in the landlord's mailbox on December 8, 2020. Both parties confirmed that neither had submitted any documentary evidence. I accept the undisputed testimony of both parties and find that both parties have been sufficiently served with the notice of hearing package and are deemed served as per section 90 of the Act.

Preliminary Issue(s)

At the outset, the tenant's request for more time was clarified. The tenant requested an adjournment for more time due to health issues and not having any time to prepare for the hearing. Discussions with the tenant resolved the tenant's issues and the tenant withdrew her request for an adjournment. The tenant stated that she was served with the 1 month notice on November 25, 2020 and that the application to dispute the notice was filed on November 30, 2020. Section 47(4) of the Act states that a tenant may dispute a notice under this section by making an application for dispute within 10 days after the date the tenant receives the notice. On this basis, the tenant's request for more time is not required as the tenant filed the application for dispute within the allowed timeframe.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 month notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed the landlord served the tenant with the 1 month notice dated November 20, 2020 posted to the rental unit door on November 20, 2020. The 1 Month Notice sets out an effective end of tenancy date of December 20, 2020 and that it was being given as:

- the tenant is repeatedly late paying rent;

The landlord stated that the tenant is repeatedly late paying rent. The tenant has repeatedly paying rent late 11 out of the last 13 minutes. The landlord stated that the tenant only paid on time twice since the tenancy started. The tenant stated that the tenant's rent is subsidized and has only been receiving the subsidized rent payment on time leaving arrears each month. The tenant stated that she did not know the rent was late as the subsidized portion is automatically pre-paid. The tenant confirmed that she has been having personal health and financial issues. The landlord stated that since the 1 month notice was served the tenant has failed to pay any rent for the last 2 months, except for the subsidized portions. The landlord stated that he had served the tenant with a warning letter regarding late rent payments prior to issuing the notice.

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, I accept the undisputed testimony of both parties and find that the landlord did serve the tenant with a 1 month notice to end tenancy for cause regarding repeatedly late payments of rent dated November 20, 2020. Both parties have confirmed that the tenant has been repeatedly late paying rent on at least 11 out of the last 13 rent payment cycles. On this basis, I find that the tenant's application to cancel the 1 month notice is dismissed. The 1 month notice dated November 20, 2020 is valid

and upheld. Pursuant to Section 55 of the Act, the landlord is granted an order of possession to be effective 2 days after it is served upon the tenant.

Conclusion

The tenant's application is dismissed.

The landlord is granted an order of possession.

The tenant must be served with this order. Should the tenant fail to comply with this order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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 26, 2021

Residential Tenancy Branch