



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDL-S, MNRL-S, FFL

Introduction

On December 7, 2020, the Landlord 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”), seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing with S.S. attending as an agent for the Landlord. The Tenant did not attend at any point during the 18-minute teleconference hearing. All in attendance provided a solemn affirmation.

The Landlord advised that the Notice of Hearing and evidence package was served to the Tenant by hand, with the police, on December 10, 2020. Based on the undisputed, solemnly affirmed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Landlord’s Notice of Hearing and evidence package. As such, I have accepted the Landlord’s evidence and will consider it when rendering this Decision.

As per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. As such, this hearing primarily addressed issues related to the Landlord’s Notice, and the other claims were dismissed with leave to reapply. The Landlord is at liberty to apply for any other claims under a new and separate Application.

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

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

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.

The Landlord advised that the tenancy started on July 1, 2020, that rent is currently established at \$1,100.00 per month, and that it is due on the first day of each month. A security deposit of \$550.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

She advised that the Notice was served by hand on October 25, 2020. The effective end date of the tenancy on the Notice was noted as November 30, 2020. The reasons the Landlord served the Notice are as follows.

- The Tenant has allowed an unreasonable number of occupants in the unit/site/property/park.
- 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/or
 - Put the Landlord's property at significant risk.
- The Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to:
 - Damage the Landlord's property;
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord; and/or
 - Jeopardize a lawful right or interest of another occupant or the Landlord.
- The Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the unit/site or property/park.

- The Tenant has not done required repairs of damage to the unit/site/property/park.

The Landlord testified that the Tenant would regularly get drunk and scream, that she would swear, and that she would play loud music at night. She would allow random drunk people onto the premises, and she would send threatening messages to the Landlord. Other residents are fearful for their safety and the safety of their children. She stated that on one occasion, the Tenant intentionally turned off the breaker panel to the property for four hours, leaving all the occupants without power. She advised that on October 17, 2020, the Tenant harmed herself, that she broke a glass door in the bathroom, and that the bathtub was full of blood. She stated that the police attended the scene and took the Tenant to the hospital. She also stated that the police have been called on multiple occasions because of the Tenant's behaviours.

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.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form. In reviewing the Notice, I find that this Notice meets all of the requirements of Section 52.

The undisputed evidence is that the Notice was served by hand on October 25, 2020. According to Section 47(4) of the *Act*, the Tenant has 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 Wednesday November 4, 2020 and the Tenant must have disputed the Notice by that date at the latest. The undisputed evidence is that the Tenant did not make an Application to dispute this Notice. 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, I am satisfied that the Tenant is conclusively presumed to have accepted the Notice. However, I must still determine whether the reasons the Landlord served the Notice are valid.

Based on the consistent, solemnly affirmed testimony, and the supporting documentary evidence, I am satisfied from this undisputed testimony that the reasons stipulated on the Notice have been justified, on a balance of probabilities. Ultimately, as the Tenant was conclusively presumed to have accepted the Notice, and as I am satisfied of the reasons the Notice was served, I find that the Landlord is entitled to an Order of Possession. I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants.

As the Landlord was successful in her claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Pursuant to Sections 67 and 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of this debt outstanding.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. This Order must be served on the Tenant by the Landlord. 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 25, 2021

Residential Tenancy Branch