



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Action Property
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC FFT

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

While the landlord's agent, DS ("landlord"), attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. During the 11:00 a.m. hearing I confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenant's application. The landlord testified that the tenant was with the landlord's evidentiary materials by way of registered mail on January 7, 2021. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with these materials on January 12, 2021, 5 days after mailing.

The landlord testified that the 1 Month Notice to End Tenancy for Cause, with an effective date of January 31, 2021 ('the 1 Month Notice') was served to the tenant on December 7, 2020 by way of posting the Notice on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the 1 Month Notice on December 10, 2020, 3 days after posting.

Issues

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

This month-to-month tenancy began on November 1, 1999. Monthly rent is currently set at \$835.00, payable on the first of the month. The tenant also pays a monthly charge of \$25.00 for water. The landlord confirmed that they collected a security deposit in the amount of \$292.50 at the beginning of the tenancy, which they still hold. The landlord confirmed that the tenant still resides in the rental unit.

The landlord issued the 1 Month Notice on the following grounds:

1. The tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that the tenant was issued several warning letters, dated October 6 and December 2, 2020 regarding excessive noise complaints that the landlord has received. The landlord testified that despite these warning letters, the tenant continues to engage in the same behaviour, which has caused significant disturbance to other tenants in the building.

The landlord submitted a copy of an email dated February 15, 2021 to support the fact that despite the issuance of the previous warning letters and the 1 Month Notice, the tenant has not changed his behaviour. The landlord is requesting an Order of Possession as the tenant has caused an unreasonable level of disturbance to the other tenants in the building.

Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

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.

Section 55(1) of the *Act* reads as follows:

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.

In the absence of any submissions from the applicant in this hearing, I order the tenant's entire application dismissed without leave to reapply.

A copy of the 1 Month Notice was submitted by the tenants for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

I dismiss the tenant's entire application without leave to reapply. I find that the landlord's 1 Month Notice is valid and effective as of January 31, 2021.

I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant(s). Should the tenant(s) 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: March 1, 2021