



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNDL, MNDCL, FFL

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated September 9, 2020 (1 Month Notice), for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

An agent for the landlord, IC (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the agent were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated January 14, 2021 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant by both registered mail and personal service, the latter of which was at the rental unit address on January 14, 2021 at approximately 1:00 p.m. and was witnessed by third party, JA, the building manager. Based on the undisputed testimony before me, I accept that the tenant was sufficiently served as of January 14, 2021, by personal service. While the tenant was also served by registered mail, due to a lack of registered mail tracking number being provided, I have satisfied myself with service based on personal service described above.

As a result of the above, I consider this matter undisputed by the tenant as I find the tenant was sufficiently served in accordance with the Act and did not attend the hearing to dispute the claim of the landlord.

Preliminary and Procedural Matter

The agent confirmed their email addresses during the hearing. They also confirmed that they are not aware of the tenant's email address. The agent was advised that the decision and any related orders will be emailed to the landlord. The decision will be sent by regular mail to the tenant due to no email address being available.

Issues to be Decided

- Is the landlord entitled to an order of possession based on an undisputed 1 Month Notice?
- Is the landlord entitled to a monetary claim under the Act? If yes, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on November 1, 2014. The tenant was not required to pay a security deposit or pet damage deposit.

The agent confirmed service of the 1 Month Notice by personal service on the tenant on September 9, 2020. The 1 Month Notice included an effective vacancy date of October 31, 2020 and indicated four causes on page two of the 1 Month Notice. The agent affirmed that the tenant did not dispute the 1 Month Notice and failed to vacate the rental unit by October 31, 2020 or any day since that date. The agent stated that the landlord is seeking an order of possession as the tenant continues to occupy the rental unit. The agent completed the Details of Cause portion of the 1 Month Notice and signed and dated the 1 Month Notice.

Regarding the monetary claim, the landlord is claiming \$3,235.97 as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Reset and service the fire panel	\$787.50
2. Investigate and repair	\$617.86
3. Fire watch	\$1,730.61
4. Filing fee	\$100.00
TOTAL	\$3,235.97

Regarding items 1, 2 and 3, the agent stated that each rental unit has hard-wired smoke and heat detectors and that the tenant damaged them as the tenant thought that the devices were listening to them. The agent stated that all heat and smoke detectors work together as a system and communicate with the main fire protection panel (main fire alarm panel). The agent testified that the tenant's actions caused an alarm on the main fire alarm panel, which required investigation and according to the agent, the tenant refused access to the rental unit by the landlord for several weeks.

The agent testified that the tenant did the same thing in August 2018, October 2018 and June 2020. The agent presented invoices, which matches the amount claimed. The agent described that staff were present during the day to be on "fire watch" (fire watch) until they could access the rental unit and repair the damaged smoke and heat detectors. In addition, after hours, the landlord contracted for a security company to provide fire watch until eventually the tenant allowed entry into the rental unit and the smoke and heat detector was repaired.

The landlord is seeking reimbursement for the repair, investigation, and fire watch costs, plus the filing fee.

Analysis

Based on the undisputed documentary evidence of the landlord and undisputed testimony provided by the agent during the hearing, and on the balance of probabilities, I find the following.

Order of possession – Section 47 of the Act states that if the tenant once served with the 1 Month Notice does not dispute the 1 Month Notice within 10 days of receiving the 1 Month Notice, the tenant is conclusively presumed to have accepted the 1 Month Notice and must vacate the rental unit on the effective vacancy. In the matter before me, the tenant did not dispute the 1 Month Notice and as a result, I find the tenancy ended on the effective vacancy date, which was October 31, 2020. As the tenant continues to occupy the rental unit, I find the tenant is overholding the rental unit. Therefore, pursuant to section 55 of the Act, I grant the landlord an order of possession effective **two (2) days** after service on the tenant. I have reviewed the 1 Month Notice and find that it complies with section 52 of the Act.

Monetary order – Section 32(3) of the Act applies and states:

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Given the above, I find the tenant is responsible for damaging the heat and smoke detector in their rental unit, which is connected to main fire alarm panel. I find the tenant breached section 32(3) of the Act by damaging the heat and smoke detector and then denying access in a reasonable time leading to additional costs to investigate and hire security staff to be on fire watch until the fire alarm system was repaired. Therefore, pursuant to section 67 of the Act, I find the landlord has met the burden of proof and I grant the landlord **\$3,135.97** for their monetary claim in full.

In addition, as the landlord's application was successful and pursuant to section 72 of the Act, I grant the landlord **\$100.00** for the recovery of the cost of the filing fee under the Act. Given the above, I find the landlord's total monetary claim is **\$3,235.97** as described above.

Conclusion

The landlord's application is fully successful.

The tenancy ended October 31, 2020.

The tenant is overholding the rental unit. The landlord is granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order pursuant to section 67 of the Act in the amount of \$3,235.97. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The decision and orders will be emailed to the landlord.

The decision will be sent by regular mail to the tenant.

The landlord must serve the orders on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 14, 2021

Residential Tenancy Branch