



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NANAIMO AFFORDABLE HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

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

- an order of possession for cause pursuant to section 55.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties confirmed the landlord served the tenant with the notice of hearing package and the submitted documentary evidence posted to the rental unit door on April 12, 2021. The tenant confirmed that no documentary evidence was submitted by her. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

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.

On November 27, 2020, the landlord served the tenant with the 1 Month Notice dated November 27, 2020 by posting it to the rental unit door. The 1 Month Notice sets out an effective end of tenancy date of December 31, 2020 and that it was being given as:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The details of cause state:

First incident- September 18, 2019- Tenant caused flood in bathroom which affected neighbor below, discovered potential hoarding issue (clothing, dirt, cigarette butts and broken glass). Follow-up inspection completed on September 19, 2020 by J.D. and T.B., with verbal warning that another incident could put tenancy in jeopardy.

Second incident- September 1, 2020- Annual Fire inspection- The unit was unsafe for workers to enter to perform fire inspection safely. Follow-up inspection completed on October 21, 2020 by J.S. and T.B., unit condition was not improved, an extension to clean the unit was given.

Inspection was performed on November 23, 2020 at 10:00 am by J.S.- The unit condition was in a worse state- with more items and no cleaning progress.

Violation of signed tenancy agreement: Section 13- Subsection B and F – Attached copy to this notice.

Violation of RTA: Part 2- Division 4- Section 32- Subsection 2:A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and residential property to which the tenant has access.

[reproduced as written]

In support of these claims the landlord has submitted copies of:

Signed Tenancy Agreement dated June 24, 2019

Warning letter dated October 6, 2020, re: improper use of rental unit-Tenant Obligations

Inspection Report dated November 12, 2020, re: violations

Letter dated December 14, 2020, re: Fire and Life Safety Concern

8 pictures of rental unit interior

Letter dated February 10, 2021, re: Tenant Obligation-Maintain Unit Condition

Fire Department Order dated February 11, 2021

Invoice dated March 10, 2021, re: Rubbish Removal for \$198.45

The tenant disputed that she was not served with the 1 month notice on November 27, 2020 posted to the rental unit door. The landlord stated that a copy of a completed proof of service document shows that the 1 month notice dated November 27, 2020 was served posted to the rental unit door with a witness. The tenant stated that she did not receive it until late December 2020. Both parties confirmed that the landlord served a second copy of the 1 month notice to the tenant in mid to late December 2020. The tenant stated that she misplaced this second copy. The landlord stated that they were informed that the tenant might have been in hospital in November 2020, but the tenant stated that she was not. The tenant stated that she was in hospital in December 2020.

The landlord provided a written description which states in part that a “hoarding issue” was identified on September 18, 2019; a verbal warning was issued to the tenant to resolve the issue or the tenancy was in jeopardy on September 19, 2019; an inspection was conducted on September 1, 2020 and found unsafe; a follow up inspection was conducted on October 21, 2020 and found with no improvement; a reinspection was done on November 23, 2020 and found in worse condition.

The tenant stated that she understood that claims made by the landlord and does not dispute them.

Analysis

Section 47(1)(h) of the Act sets out that a landlord may end a tenancy where the tenant has failed to comply with a material term and the tenant has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

In this case, I find on a balance of probabilities that the tenant was properly served with the 1 month notice dated November 27, 2020 posting it to the rental unit door. Despite the tenant arguing that she was not served with the 1 month notice dated November 27, 2020 the landlord has provided a completed proof of service document in which a witness was present who confirmed service in this manner. I also note that the tenant provided evidence that she requested a copy of the same notice in December 2020 and did not file an application to dispute it. On this basis, the tenant is deemed served as per section 90 of the Act.

I also find on a balance of probabilities that the landlord has established a claim for ending the tenancy. The landlord provided undisputed evidence that the tenant has been cautioned, warned regarding the “hoarding issue” that her tenancy could be in jeopardy. Despite this the landlord provided undisputed evidence that the tenant made no effort to resolve the issue. The tenant confirmed the landlord’s claims without dispute. As such, the 1 month notice dated November 27, 2020 is upheld. The landlord is granted an order of possession and shall be effective 2 days after it is served upon the tenant.

Conclusion

The landlord is granted an order of possession.

This order must be served upon the tenant. 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: April 29, 2021

Residential Tenancy Branch