



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") an Order of Possession for cause, pursuant to section 55.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

The tenant confirmed receipt of the landlord's dispute resolution package and evidence package. In accordance with sections 88 and 89 of the *Act*, I find that the tenant duly served with the landlord's application and evidence package. The tenant did not submit any written evidence for this hearing.

The tenant confirmed that they were served with the landlord's 1 Month Notice to End Tenancy for Cause dated January 31, 2021, which was personally served on the tenant on the same date. Accordingly, I find the tenant duly served with the 1 Month Notice on January 31, 2021.

Issues

Is the landlord entitled to an Order of Possession?

Background and Evidence

This month-to-month tenancy began on November 1, 2011, with monthly rent currently set at \$1,400.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$550.00, which the landlord still holds.

The landlord served the tenant with a 1 Month Notice to End Tenancy on January 31, 2021 on the following grounds:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. The tenant or a person permitted on the property by the tenants has put the landlord's property at significant risk;
3. 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;
4. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant;
5. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;
6. Tenant has not done required repairs of damage to the unit/site/property/park
7. Rental unit/site must be vacated to comply with a government order; and
8. Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

The landlord submits that they have received several notices from the municipality for bylaw infractions related to noise concerns and disturbance to the neighbours. The landlord submits that they have also received complaints about the state of the property which was deemed to be untidy. The landlord submits that despite the fact that the tenant has been given an opportunity to remedy these issues, the tenant has not done so, and the landlord continues to receive complaints. The landlord submitted a written history in their evidence detailing the issues and attempts to deal with the matter.

The tenant signed a Mutual Agreement to move out by April 30, 2021, but the tenant testified that she is currently looking for a new place, but has not been successful in doing so. The landlord requested an Order of Possession as they feel that they have given the tenant ample opportunity to address the issues or move out.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file an application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under

section 47(5) of the *Act* to have accepted that the tenancy ended on the corrected, effective date of the 1 Month Notice, March 31, 2021.

Based on the testimony and evidence before me, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice to be valid. I find that the 1 Month Notice complies with the form and content provisions of 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.

In this case, this required the tenant and anyone on the premises to vacate the premises by March 31, 2021. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

Conclusion

I find that the landlord is entitled to an Order of Possession. I find that the landlord's 1 Month Notice is valid and effective as of March 31, 2021.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant and any occupant of this original rental agreement 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: May 18, 2021

Residential Tenancy Branch