



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SETO INVESTMENTS and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OLC FFT

Introduction

This matter was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel two 1 Month Notice to End Tenancy for Cause (1 Month Notice), the first dated February 24, 2021 (1 Month Notice A), and the second dated May 7, 2021 (1 Month Notice B).

The tenant, an agent for the named landlord company, GR (agent) and a support person for the named landlord company, LS (support) attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties had the opportunity to submit documentary evidence prior to this hearing, to present affirmed testimony and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As both parties confirmed that they had received all evidence and had the opportunity to review it prior to the hearing, I find that both parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance

Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Issue to be Decided

- Should either 1 Month Notice A or 1 Month Notice B be cancelled?
- If yes to either 1 Month Notice, should the filing fee be granted?

Background and Evidence

The parties agreed that a month to month tenancy began on July 1, 2005. The parties also agreed that a copy of the tenancy agreement was not available as it was misplaced. The parties agreed that current monthly rent in the amount of \$1,437.00 is due on the first day of each month.

The tenant confirmed that they were served with a 1 Month Notice A on February 25, 2021. 1 Month Notice A is dated February 24, 2021 and alleges a total of 3 causes as follows:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety of lawful right of another occupant or the landlord.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

The agent attached a letter to the 1 Month Notice A, which sets out the time and dates of the 14 events that prompted the landlord to issue the 1 Month Notice A. The second incident states the following:

2. Dec. 11, 2020, 7:00 p.m.:

Tenant had 4 non resident guests in his apartment for a few hours, this was mentioned to management by 2 other residents. The building manager reminded the tenant about the PHO's.

In addition the notice also reads:

Despite being warned by management several times, tenant continues to invite guests into the building and his apartment unit. This behaviour is contrary to current provincial health orders (PHO's) which came into effect November 19, 2020. The PHO's state in part "No social gatherings of any size at your residence with anyone other than your household"...

The agent stated that for multi-unit buildings, the PHO did not allow outside guests due to the COVID-19 pandemic rules in place at that time. The agent stated the building has 34 units and that the actions of the tenant placed all other tenants at risk due to COVID-19 by having guests over, which violates the rules. The tenant admitted to breaking the Provincial Health Order by having 2 guests over but denied having 4 guests over. The agent stated that while they saw 4 guests over on that date and time, even with 2 guests over, the tenancy should end when the tenant violates a known Provincial Health Order and risks the health of the agent and all other occupants. The tenant did not deny that they knew about the Provincial Health Order in place.

At this point in the hearing, the parties were advised that I heard enough from the agent and tenant to find the 1 Month Notice A was valid. The tenant claims other tenants were also violating the Provincial Health Orders, which I stated was not relevant to this matter as I was only deciding the matter before and not in relation to other tenants in the building.

Analysis

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

1 Month Notice A – The tenant disputed the 1 Month Notice A within the 10-day timeline as provided under section 47 of the Act. The onus of proof is on the landlord to prove that the 1 Month Notice is valid. Based on the tenant admitting that they "broke the rules" in reference to the Provincial Health Order in place on December 11, 2020, I find that 1 Month Notice A is valid and that tenant has seriously jeopardized the health or safety another occupant or the landlord. I find the tenant's behaviour to be unreasonable by purposely violating a Provincial Health Order by having 2 guests over in a 34-unit building during a pandemic, which I find put all occupants and the agent at risk of contracting COVID-19. I also find that it was not necessary to consider the other 13 incidents listed in support of the 1 Month Notice A or to consider 1 Month Notice B further.

Based on the above, I find the landlord has met the burden of proof and **I dismiss** the tenant's application in full, **without leave to reapply**. **I uphold** the landlord's 1 Month Notice. Section 55 of the Act applies and states:

Order of possession for the landlord

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.**

[Emphasis added]

I have reviewed 1 Month Notice A and find that it fully complies with section 52 of the Act. Accordingly, **I grant** the landlord an order of possession effective **June 30, 2021 at 1:00 p.m.** as the parties confirmed that money has been paid for use and occupancy for June 2021.

I do not grant the filing fee as the tenant's application has failed.

Conclusion

The tenant's application is dismissed, without leave to reapply. The tenancy ended on the effective vacancy date of the 1 Month Notice, March 31, 2021.

The landlord has been granted an order of possession effective June 30, 2021 at 1:00 p.m. for the reason noted above. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia. The tenant can be held liable for all costs related to enforcement of the order of possession.

This decision will be emailed to both parties.

The order of possession will be emailed to the landlord only for service on the tenant as required.

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: June 8, 2021

Residential Tenancy Branch