



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vernon Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

On March 7, 2021 the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") asking to cancel a One Month Notice to End Tenancy dated February 25, 2021 ("the One Month Notice"), and for the return of the filing fee.

The matter was set for a conference call hearing. Both parties attended the hearing at the appointed date and time and were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. There were no issues raised with respect to service of the Application and documentary evidence. As such, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the One Month, pursuant to Section 47 of the *Act*?
2. Is the Tenant entitled to the return of the filing fee, pursuant to Section 72 of the *Act*?

3. If the Tenant is unsuccessful in cancelling the One Month Notice is the Landlord entitled to an Order of Possession, pursuant to Section 55 of the Act?

Background and Evidence

Both parties agreed that the tenancy in relation to the currently rental unit commenced on August 15, 2021. Rent in the amount of \$569.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$477.50 which the Landlord continues to hold.

The Landlord's Agents stated that the Tenant's guest appears to be an unauthorized occupant in the rental unit. The Landlord's Agents stated that the occupant has been using and selling illicit substances on the rental property. The Landlord made witness C.C. available who testified that she is a tenant at the rental property and that the occupant has been repeatedly selling illicit substances to her boyfriend at the rental property.

The Landlord's Agents stated that the rental property offers low income housing to families with the understanding that there is to be no illegal activities or drug use on the property. The Landlord's Agents stated that the actions of the Tenant's occupant has put other families at the rental property at risk and that they are concerned for their safety.

For the above-mentioned reasons, the Landlord served the Tenant with the One Month Notice on February 25, 2021 with an effective vacancy date of March 31, 2021 by posting it on the door of the dispute address. The Tenant confirmed having received the One Month Notice on the same day. The Landlord's reasons for ending the tenancy on the One Month Notice are;

The Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health and safety or lawful right of another occupant or the landlord.

The Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

In response, the Tenant's occupant stated that he struggles with addiction issues. While currently on the Methadone program, the occupant stated that he had relapsed, using heroin as a way to manage his withdrawal. The occupant stated that the neighbour had been asking for some heroin to manage his withdrawal symptoms as well. Being sympathetic, the occupant stated that he wanted to help his neighbour by providing him with some heroin. The Tenant stated that she was unaware that this was taking place.

The Tenant and the occupant stated that they are both taking part in the Methadone program currently and that there are no more illicit substances being used or distributed at the rental property. The Tenant provided a safety plan and doctors note in support of their recovery efforts.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant with a One Month Notice to End Tenancy for Cause on February 25, 2021 with an effective vacancy date of March 31, 2021 by posting it on the door of the dispute address. The Tenant confirmed having received the notice on the same date. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act.

In this case, I accept that the Tenant's occupant has been using and distributing heroin on the rental property, contrary to the terms and conditions of the tenancy agreement. I find that the Tenant is responsible for her guest and that by allowing the occupant to use and distribute an illicit substance such as heroin at the rental property jeopardizes the health and safety or lawful right of the other occupant or the landlord.

In light of the above, I dismiss the Tenant's Application to cancel the One Month Notice in its entirety.

Section 55 of the Act requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

I find that the One Month Notice complies with the requirements for form and content. I find that the Landlord is entitled to an order of possession effective at 1:00PM on June 30, 2021, after service on the Tenant, pursuant to section 55 of the *Act*. This order should be served onto the Tenant as soon as possible.

Conclusion

The Tenant's Application is dismissed in its entirety without leave to reapply.

The Landlord is granted an order of possession, which will be effective at 1:00PM on June 30, 2021 after service on the Tenant. If the Tenants fail to comply with the order of possession it may be filed in 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: June 15, 2021

Residential Tenancy Branch