



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: CNC

Introduction

The tenant applied to dispute a One Month Notice to End Tenancy for Cause pursuant to section 47(4) of the *Residential Tenancy Act* ("Act").

The landlord's agent (the hotel manager) attended a hearing on June 28, 2021 at 9:30 AM. The tenant did not attend the hearing, which ended at 9:41 AM. The landlord confirmed that they had served their evidence on the tenant prior to the hearing.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The tenancy began on June 1, 2019 and monthly rent is \$800.00. The tenant paid a security deposit of \$100.00. A copy of the written Residential Tenancy Agreement was submitted into evidence.

On March 2, 2021 the landlord served the One Month Notice to End Tenancy for Cause (the "Notice") on the tenant. A copy of the Notice is in evidence, and page two of the Notice indicates two grounds on which it was issued. (I will only address the first of the two grounds, namely, that the tenant put the landlord's property at significant risk.)

The landlord testified that the tenant has a hoarding problem, and that the rental unit is fuller than it ever was. On March 2, there was a major water leak that affected a couple of the rental units within the multi-unit property, and the landlord and her husband needed to access the rental unit to let the plumber in.

It took the landlord and the plumber three hours to gain access to the rental unit: the tenant at first refused to allow them to access the rental unit, despite it being an emergency. Second, the rental unit was so full of miscellaneous items that the plumber and landlord had great difficulty moving about. When they finally were able to access the bathroom (where the leak was) they observed water running down the walls. In addition, they noticed that the tenant had literally ripped the cabinet off the vanity. Apparently, it was in his way. The landlord submitted several photographs of the interior of the rental unit, including that of the destroyed cabinet in the bathroom.

Analysis

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

Section 47(1)(d)(iii) of the Act states that a landlord may end a tenancy by giving notice to end the tenancy when “the tenant or a person permitted on the residential property by the tenant has [. . .] put the landlord's property at significant risk.”

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving that the tenant has put the landlord's property at significant risk.

First, by not permitting the landlord and their plumber to enter the rental unit when there was a major water leak occurring, the tenant put the landlord's property at significant risk. It is common knowledge that major water leaks pose serious and significant risks to the integrity of property. The landlord, under section 29(1)(f) of the Act, had the legal right to enter the rental unit when “an emergency exists and the entry is necessary to protect life or property.”

Second, by the excessive storage and clutter, the tenant has created an access hazard which, in the case of a further flood (or, worse, a fire), puts the landlord's property at significant risk.

Given the above, the tenant's application is dismissed, the Notice is upheld (having also found that it complies with section 52 of the Act), and an order of possession is granted pursuant to section 55(1) of the Act.

Conclusion

The tenant's application is dismissed without leave to reapply.

I hereby grant the landlord an order of possession, which must be served on the tenant and which is effective two (2) days from the date of service. This order 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 Act.

Dated: June 28, 2021

Residential Tenancy Branch