



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hildon Holdings LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Application, notice of this hearing and all evidentiary material by registered mail on May 31, 2021 and was permitted to provide proof of such service after the hearing concluded. I now have a Registered Domestic Customer Receipt date-stamped May 31/21 by Canada Post and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent (hereafter referred to as the landlord) testified that this fixed-term tenancy began on September 1, 2017 expiring on November 30, 2017, however another tenancy agreement was made by the parties for a month-to-month tenancy beginning on December 1, 2017 and the tenant still resides in the rental unit. Rent was originally \$550.00 payable on the 1st day of each month, which has been increased over time and is

now \$563.75 and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$275.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a single occupancy room.

The landlord further testified that on April 12, 2021 the tenant was caught pointing a pellet gun and air rifles out of the window of his room and shooting pigeons. Police arrived and found air rifles and pellet guns in the tenant's room. The landlord saw 3 guns on video surveillance, and the police confiscated the guns but did not arrest the tenant.

The landlord served the tenant with a One Month Notice to End Tenancy for Cause on April 14, 2021 by attaching it to the door of the rental unit. A copy has been provided for this hearing and it is dated April 14, 2021 and contains an effective date of vacancy of May 15, 2021. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- 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 or the landlord.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice.

Analysis

The *Residential Tenancy Act* specifies that once served with a One Month Notice to End Tenancy for Cause (the Notice), the tenant has 10 days to dispute it. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, the landlord testified that the tenant has not served the landlord with an application disputing the Notice, and I have no such application before me.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. I also accept the undisputed testimony of the landlord that the landlord had cause to evict the tenant.

The law also specifies that incorrect effective dates contained in a Notice are changed to the nearest date that complies with the *Act*. Since rent is payable on the 1st day of each month, and the Notice was served on April 14, 2021, which is deemed to have been served 3 days after posting it to the door, I find that the effective date of vacancy is changed to May 31, 2021. The tenant has not vacated the rental unit, and I am satisfied that the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the landlord in that amount and I order that the landlord be permitted to keep that amount from the security deposit held in trust, or may otherwise recover it by filing the order in the Provincial Court of British Columbia, Small Claims division for enforcement.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the landlord be permitted to keep that amount from the security deposit held in trust or may otherwise recover it.

This order is final and binding and may be enforced.

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: August 06, 2021

Residential Tenancy Branch