



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1025397 BC Ltd and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes LL: OPC
 TT: CNC-MT

Introduction

This hearing dealt with applications from both the landlord and tenants pursuant to the *Residential Tenancy Act* (the “Act”).

The corporate landlord applied for:

- an order of possession pursuant to section 55.

The tenants named the personal respondent and applied for:

- More time to make an application to cancel the landlord’s 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) pursuant to section 66; and
- Cancellation of the 1 Month Notice pursuant to section 47.

The tenants did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the “landlord”) who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenants with the notice of application and evidence by registered mail sent on May 14, 2021. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that

the tenants are deemed served with the landlord's materials on May 19, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?
Are the tenants entitled to any of the relief sought?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This fixed-term tenancy began on November 1, 2020. The monthly rent is \$1,100.00 payable on the first of each month. A security deposit of \$550.00 and pet damage deposit of \$550.00 were collected at the start of the tenancy and are still held by the landlord. The rental unit is a suite in a multi-unit building of 31 units.

The landlord issued a 1 Month Notice dated January 26, 2021 provided the reasons for ending the tenancy are:

Tenant has allowed an unreasonable number of occupants in the unit/site

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;*
- *put the landlord's property at significant risk.*

Tenant has engaged in illegal activity that has, or is likely to:

- *damage the landlord's property;*
- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

The landlord gave evidence that the tenants have been dealing illicit drugs from the rental unit allowing guests to access the rental property, cause damage to the common areas by kicking in the front doors, congregating in the common area stairwells and

hallways and engaging in aggressive hostile actions against the other occupants of the building. The tenants have also installed their own cameras in the common areas. The landlord provided a large volume of written complaints, warning letters, incident reports and correspondence noting the tenants' conduct.

The tenants filed an earlier dispute of the 1 Month Notice on January 29, 2021 under the file number on the first page of this decision. The tenants' application to cancel the 1 Month Notice was dismissed with leave to reapply. In the earlier decision the arbitrator notes:

I dismiss the Tenants' Application with leave to reapply. However, this does not extend any applicable time limits under the legislation.

Analysis

The tenants did not attend the hearing which was scheduled by conference call at 11:00am.

Rule 7.3 of the Rules of Procedure provides that:

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to re-apply.

Consequently, as the tenants failed to attend the hearing and the respondent attended and was prepared to proceed, I dismiss the tenants' application in its entirety without leave to reapply.

Section 55 of the *Act* provides that:

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.

I have dismissed the tenant's application, and I find that the landlord's 1 Month Notice complies with the form and content requirements of section 52 as it is signed and dated by the agent of the corporate landlord, provide the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I am satisfied with the landlord's evidence including their undisputed testimony and documentary materials that the tenants have engaged in conduct that has given rise to a basis to end this tenancy. I accept that the tenants and their guests have congregated in common areas, incited aggressive interactions with others and have caused excessive noise and hostile behaviour that has resulted in unreasonable disturbance and significant interference with the other occupants of the rental building.

Accordingly, I find that the landlord is entitled to an Order of Possession pursuant to section 55. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after service.

Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or any occupant on the premises 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: September 2, 2021

Residential Tenancy Branch