



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL
 CNR-MT, CNE-MT, OLC

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession for cause, and to recover the filing fee from the tenant. The tenant has named a different landlord, applying for more time than prescribed to dispute a notice to end the tenancy; an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order cancelling a notice to end the tenancy for end of employment; and for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement.

An agent and a witness for the landlord attended the hearing, and the landlord's agent gave affirmed testimony. The landlord's witness did not testify or take part in 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 Landlord's Application for Dispute Resolution, notice of this hearing and all evidentiary material by registered mail on June 11, 2021 and has provided a copy of a Registered Domestic Customer Receipt addressed to the tenant and stamped with that date by Canada Post. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The landlord's agent also testified that the landlord has not been served with any documentation by the tenant.

Since the tenant has not joined the call or testified with respect to serving the landlord, I dismiss the tenant's application in its entirety without leave to reapply.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

The issue remaining to be decided is:

- 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 testified that this month-to-month tenancy began on August 1, 2020 and the tenant still resides in the rental unit. Market rent is \$1,354.00 per month, which is subsidized and the tenant's share is \$320.00, payable on the 1st day of each month 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 \$350.00 as well as a pet damage deposit in the amount of \$350.00, both of which are still held in trust by the landlord. The rental unit is an apartment in a complex containing 23 units, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that on May 12, 2021 the landlord's agent served the tenant with a One Month Notice to End Tenancy for Cause by posting it to the door of the rental unit. A copy of the Notice has been provided for this hearing and it is dated May 12, 2021 and contains an effective date of vacancy of June 30, 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;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord has received about 10 complaints from the tenant above this rental unit about noise after 11:00 p.m.; noise at 3:00 a.m.; noise after midnight; and noise at 2:00 a.m. The landlord has written notices to the tenant about 5 times without any response from the tenant and the landlord continues to receive noise complaints.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession and recovery of the \$100.00 filing fee.

Analysis

Where a tenant intends to dispute a notice to end a tenancy given by a landlord, the tenant must serve the landlord with the application and notice of the hearing within 3 days of receiving the notice of hearing from the Residential Tenancy Branch. In this case, the tenant has not done so, and I dismiss the tenant's application.

I have reviewed the One Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Residential Tenancy Act*. I also find that the landlord has proven cause to evict.

The *Act* also specifies that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the Notice given is in the approved form. Having found that it is in the approved form, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy contained in the Notice 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 as against the tenant in that amount, and I order that the landlord may keep that amount from the security deposit held in trust, or may otherwise recover it by filing it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

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 is 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: September 13, 2021

Residential Tenancy Branch