



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on June 30, 2021 (the "Application"). The Tenant applied for more time to extend the time limit established by the *Residential Tenancy Act* (the "Act") to make an Application for dispute resolution to obtain an order cancelling a One Month Notice to End Tenancy for Cause, dated June 15, 2021 (the "One Month Notice"), pursuant to the *Act*.

The Tenant, the Landlord and the Landlord's Agent G.M. attended the hearing at the appointed date and time. At the start of the hearing, the Landlord confirmed that she received the Tenant's Application and documentary evidence package; however, the packaged lacked the hearing login information. The Landlord stated that she was able to obtain this missing information from the Residential Tenancy Branch, therefore, was willing to proceed with the hearing. The Tenant confirmed that he received the Landlord's documentary evidence in response to the Application. As such, I find the above-mentioned document were sufficiently served pursuant to Section 71 of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (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*.

Issue(s) to be Decided

1. Is the Tenant entitled to more time to allow the Application for Dispute Resolution, pursuant to Section 66 of the *Act*?
2. Is the Tenant entitled to an order cancelling One Month Notice, pursuant to Section 47 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

The parties testified and agreed to the following; the tenancy began on April 1, 2014. Currently, the Tenant is required to pay rent in the amount of \$1,165.00 which is due on the first day of each month. The Tenant paid a security deposit in the amount of \$502.50 which the Landlord continues to hold. The Tenant continues to occupy the rental unit.

The Landlord testified that she served the One Month Notice dated June 15, 2021 with an effective vacancy date of July 31, 2021 by Registered Mail on June 15, 2021. The Landlord is seeking to end the tenancy based on the following;

“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 amount of time after written notice to do so.”

“Non compliance with an order under the legislation within 30 days after the tenant received the order or date in the order.”

The Landlord stated that the Tenant has been causing several disturbances at the rental property, which seem to be ongoing and escalating despite several caution notices and Police attendance. The Landlord stated that the Tenant has made several verbal threats to staff and other occupants at the rental property. The Tenant has been playing music and making noise in the rental unit at all hours of the night. The Tenant has been leaving his door open, and monitoring other occupants as they come and go

from their units intimidating them as they pass by. The Tenant can be seen changing in his suite as a result of him leaving his door open, and also sprays cologne in the hallways, impacted other occupants.

The Landlord stated that the Tenant makes false complaints regarding building issues, which the Landlord follows up on and are proven to be unfounded claims. The Tenant has been running his hot water continuously leaving little to no water for the rest of the occupants at the rental property.

The Tenant responded by confirming that he received the One Month Notice on June 15, 2021 and disputed the One Month Notice on June 30, 2021. The Tenant has applied for more time to submit his Application to dispute the One Month Notice as the Tenant's Application was made outside of the 10 Day time limit set out in the *Act*.

The Tenant stated that he has no computer access as such, he was unable to submit his Application on time. The Tenant disagrees with the Landlord's claims, stating they are rather absurd and ridiculous.

Analysis

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

The Landlord served the One Month Notice by Registered Mail on June 15, 2021. The Tenant confirmed having received the One Month Notice on June 15, 2021. As such, I find the One Month Notice was sufficiently served pursuant to Section 88 of the *Act*.

Section 47(4) of the *Act* provides that a Tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute the notice. Further, section 47(5) of the *Act* confirms that failure to dispute the notice in the required time period results in the conclusive presumption the tenancy ends on the effective date of the notice, July 31, 2021.

I find that after receiving the One Month Notice on June 15, 2021, the Tenant had until June 25, 2021 to submit an Application for dispute resolution or accept that the tenancy will end on July 31, 2021.

The Tenant did not dispute the One Month Notice until June 30, 2021. I find that the Application was made outside of the 10 days permitted under Section 47(4) of the *Act*.

The Tenant has applied for more time to file his Application. Pursuant to Section 66 of the *Act*, the director may extend a time limit established by the *Act* only in exceptional circumstances. The Tenant stated that he did not have computer access.

I find that there is insufficient evidence before me to support an exceptional circumstance preventing the Tenant from making an Application within the time limits set out in Section 47(4) of the *Act*. I find that the One Month Notice has instructions for the Tenant on how to dispute the Notice which includes; Online, and in person at any Service BC Office. I find that the Tenant provided no evidence to demonstrate why he was unable to apply to dispute the One Month Notice at the Victoria Service BC Office within the appropriate time limits. For these reasons I dismiss the Tenant's Application for more time.

I find the Tenant was out of time to dispute the One Month Notice and is conclusively presumed to have accepted the tenancy ended on the effective date of the One Month Notice, July 31, 2021. In light of the above, I dismiss the Tenant's Application to cancel the One Month Notice, without leave to reapply.

When a Tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a Landlord. Having reviewed the One Month Notice, submitted into evidence by the Tenant, I find it complies with section 52 of the *Act*. Furthermore, I find that the Landlord has sufficient cause to end the tenancy.

I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant.

Conclusion

Pursuant to section 55(1) of the *Act*, the Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. If the tenant fails 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: September 27, 2021