



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC LRE LAT FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 1 Month Notice to End Tenancy for Cause dated April 30, 2021 (1 Month Notice), for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, for an order to authorize the locks to the rental unit, and to recover the cost of the filing fee.

The tenant was provided with a copy of the Notice of Dispute Resolution Hearing dated May 20, 2021 (Notice of Hearing). The tenant, however, did not attend the hearing set for this date, Friday, September 17, 2021 at 11:00 a.m. Pacific Standard Time. The phone line remained open for 28 minutes and was monitored throughout this time. The only parties to call into the hearing were the landlords who were ready to proceed.

Preliminary and Procedural Matters

Firstly, landlord AV requested to be added to the application as they are a co-landlord listed on the tenancy agreement. Pursuant to section 64(3)(c) of the Act, AV was added as co-landlord.

Secondly, the landlords were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The landlords were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlords were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The landlords had no questions about my direction pursuant to RTB Rule 6.11.

Thirdly, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the tenant did not supply an email address, the decision will be sent by regular mail to the tenant.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Following the 10-minute waiting period, **the application of the tenant was dismissed without leave to reapply** pursuant to sections 7.1 and 7.3 of the RTB Rules, as the applicant failed to attend the hearing and the landlord did attend the hearing.

Section 55(1) of the Act applies and states:

Order of possession for the landlord

55(1) 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.**

[emphasis added]

I have reviewed the 1 Month Notice and amend what I find to be an obvious error on the effective vacancy date from being blank to what I find the tenant would know or ought to have known as May 31, 2021, pursuant to sections 68(1)(a) and 68(1)(b) of the Act. In addition, I find the 1 Month Notice complies with section 52 of the Act. The corrected effective date on the 1 Month Notice is May 31, 2021. In addition, I accept the undisputed testimony of the landlord that one of the causes listed, which was "failure to pay a security deposit within 30 days" is valid because the landlords testified that the tenant has failed to pay the \$750.00 security deposit even though the tenancy began on October 1, 2020.

Pursuant to section 55 of the Act, **I grant** the landlords an order of possession effective **two (2) days** after service on the tenant. I have used two (2) days as the landlords confirmed the tenant still owes \$1,200.00 in rent arrears.

I find the tenancy ended on May 31, 2021, which was the corrected effective vacancy date listed on the 1 Month Notice.

I also dismissed the remainder of the tenant's application as the tenant failed to attend the hearing to present the merits of their application.

As the filing fee was waived, it is not granted.

Conclusion

The tenants' application is dismissed without leave to reapply. The tenancy ended on May 31, 2021. The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and then may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

The tenant is cautioned that they can be held liable for all costs associated with enforcement of the order of possession.

This decision will be emailed to the landlord and sent by regular mail to the tenant who continues to occupy the rental unit according to the landlords. The order of possession will be emailed to the landlords only for service on the tenant.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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 17, 2021

Residential Tenancy Branch