



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SRSN Ventures Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date 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.

The Director and owner of the landlord company attended the hearing, accompanied by a property manager and a building manager. The property manager and the building manager each gave affirmed testimony, and evidentiary material has also been provided for this 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 property manager advised that the tenant was served with the application and notice of this hearing by registered mail on July 20, 2021 and was permitted to provide proof of such service during the hearing. I now have a Registered Domestic Customer Receipt addressed to the tenant and a Canada Post cash register receipt bearing that date and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing, the property manager explained that the individually named landlord in the application is the owner and director of the landlord company, and pursuant to Rule 4.2, I amended the application to include the name of the landlord company. The frontal page of this Decision reflects that amendment.

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

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 property manager (BD) testified that this month-to-month tenancy began on May 1, 2017 and the tenant still resides in the rental unit. Rent in the amount of \$1,000.00 was originally payable on the 1st day of each month, which has been increased over time and is now \$1,040.00 per month, and arrears of rent are outstanding. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a complex containing 18 units, and a copy of the tenancy agreement has been provided for this hearing.

The property manager further testified that on May 10, 2021 the tenant was served with a One Month Notice to End Tenancy for Cause by registered mail, and a copy has been provided for this hearing. It is dated May 10, 2021 and contains an effective date of vacancy of June 30, 2021. The reason for issuing it states:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord has also provided a copy of a Registered Domestic Customer Receipt addressed to the tenant and a Canada Post cash register receipt dated May 10, 2021.

The landlord has also provided a copy of a letter from a neighbouring tenant indicating that on May 8 between 10:00 p.m. and 1:00 a.m. the tenant caused a major disturbance making the neighbouring tenant feel unsafe, including banging on the door, verbal threats and taunts toward the neighbouring tenant and children, shouting in the corridor, and slamming doors to communal areas. It also states that the neighbouring tenant called police, and since then there have been more instances of the tenant making excessive noise in the corridors. The property manager testified that the letter was drafted by a previous property manager, and is dated May 22, 2021 and signed by the neighbouring tenant and the building manager.

The tenant has not vacated the rental unit and has not served the landlord with an application disputing the Notice, and the landlord seeks an Order of Possession and recovery of the filing fee.

The building manager (MM) testified that on September 4 and September 8, 2021 another neighbouring tenant complained that the tenant also banged on that door, almost breaking it, and others have advised that the tenant has been seen in the hallway yelling, screaming and acting erratically.

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 by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the tenancy. In this case, I accept the testimony and evidence of the landlord that the tenant was served with the Notice on May 10, 2021 by registered mail, which is deemed to have been served 5 days later, or May 15, 2021, and the tenant had until May 25, 2021 to dispute it. The property manager testified that the landlord has not been served with an application disputing the Notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy.

I also accept the undisputed testimony of the landlord's property manager and the building manager that the tenant has significantly interfered with or unreasonably disturbed other occupants in the rental complex, and 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 as against the tenant 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 it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

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: October 29, 2021

Residential Tenancy Branch