



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the Landlord's One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to Section 47 of the Act.

The hearing was conducted via teleconference. The Landlord's representative, PM, and Caretaker, MW, attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that PM, MW and I were the only ones who called into this teleconference.

PM and MW were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both testified that they were not recording this dispute resolution hearing.

PM was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

PM acknowledged the Landlord received the Notice of Dispute Resolution Proceeding package approximately on October 15, 2021 by mail (the "Notice"). PM confirmed receipt of the Notice. Pursuant to section 71(2)(b) of the Act, I find the Landlord was sufficiently served on October 15, 2021 in accordance with the Act.

Issue to be Decided

Is the Tenant entitled to cancellation of the One Month Notice?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord served the One Month Notice on the Tenant by posting the notice on her door. He stated they took a photograph of the taped posting which was dated June 7, 2021 at 9:10 AM.

PM testified that the Tenant moved into the present complex in August 2019. He submitted that the Tenant's behaviours negatively impact the residents in the present complex. PM stated that the Tenant threw a rock at a neighbour's window, it broke the window. The window was repaired, and she broke it again. PM also testified that the police have been called on several occasions to remove male occupants from her rental unit.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Section 55(1) of the Act reads as follows:

- 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 an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (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 find that the One Month Notice submitted into documentary evidence complies with Section 52 of the Act. Based on PM's undisputed testimony, and the Tenant's failure to attend this hearing and present evidence relating to her application, I order that her

application for dispute resolution to cancel the One Month Notice is dismissed without leave to re-apply.

I uphold the Landlord's One Month Notice and grant an Order of Possession to the Landlord which will be effective two (2) days after service on the Tenant.

Conclusion

The Tenant's application for dispute resolution is dismissed, and the Landlord is granted an Order of Possession pursuant to Section 55(1) of the Act, which will be effective two (2) days after service on the Tenant. The Order of Possession may be filed in and enforced as an Order of the British Columbia Supreme Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 25, 2021

Residential Tenancy Branch