



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1150715 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC, FFL**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An Order of Possession for Cause further to service of a One Month Notice to End for Cause (the "One Month Notice") pursuant to Sections 47, 55 and 62 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agents, JG and AG, 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 the Landlord and I were the only ones who had called into this teleconference.

The Landlord's Agents were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure ("ROP") prohibits the recording of dispute resolution hearings. JG and AG testified that they were not recording this dispute resolution hearing.

AG confirmed that they served the Tenant with the Notice of Dispute Resolution Proceeding package including all evidence for this hearing by Canada Post registered mail on September 13, 2021 (the "NoDRP package"). AG referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of

this decision. I find that the Tenant was deemed served with the documents for this hearing on September 18, 2021, in accordance with Sections 88(c), 89(1)(c) and 90(a) of the Act.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to recovery of the application filing fee?

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.

Submitted documentary evidence shows that the tenancy began on February 7, 2020 as a fixed term tenancy beginning on March 1, 2020 and ending on February 28, 2021. The tenancy then continued as a month-to-month tenancy. Rent in the amount of \$1,050.00 was payable on the first day of each month. The Tenant paid a security deposit of \$525.00.

The Landlord served the One Month Notice by Canada Post registered mail on July 8, 2021. The effective date was August 31, 2021. The One Month Notice stated the reason why the Landlord was ending the tenancy was because the Tenant is repeatedly late paying rent.

AG testified that the Tenant told her she was not going to dispute the One Month Notice. I note the Tenant has not applied to dispute the One Month Notice dated July 8, 2021. AG stated the Tenant is still residing in the rental unit but is actively looking for new accommodations.

The Landlord is seeking an Order of Possession.

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, in this application, is on the landlord to prove, on a balance of probabilities, the grounds

on which this application for an end of tenancy for cause were based. As this hearing was conducted pursuant to ROP 7.3, in the Tenant's absence, all the Landlord's testimony is undisputed.

Section 47(5) of the Act provides that if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Based on the undisputed evidence of AG that the Tenant does not want to dispute the One Month Notice, and I find no application for dispute resolution was filed, I find that the Tenant is conclusively presumed under Section 47(5)(a) of the Act to have accepted that the tenancy ended on the effective date of the notice.

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

55 (2) *A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:*

...

(b) *a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;*

...

(4) *In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 [Resolving Disputes],*

(a) *grant an order of possession, and*

...

I find that the One Month Notice submitted into documentary evidence complies with Section 52 of the Act. Based on my finding that this tenancy is conclusively presumed to have ended, I order that the Landlord's One Month Notice is upheld, and the Landlord is granted an Order of Possession for the rental unit pursuant to Section 55(4)(a) of the Act effective on December 1, 2021.

As the Landlord was successful in their claim, I also grant them recovery of the filing fee. Pursuant to Section 72(2)(b), the Landlord is authorized to deduct \$100.00 from the security deposit held to recover the filing fee.

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

Pursuant to Section 55(4)(a) of the Act, I grant an Order of Possession to the Landlord effective December 1, 2021. I order that the Landlord serve the Order of Possession on the Tenant immediately upon its receipt, in accordance with Section 88 of the Act. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the British Columbia Supreme Court.

The Landlord is authorized to deduct \$100.00 from the security deposit held to recover the application filing fee.

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: November 29, 2021

Residential Tenancy Branch