



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding None Vancouver management
Ltd and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNE

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The Tenant applied for an order to cancel a One Month Notice to End Tenancy for Cause, dated June 26, 2021 (the One Month Notice).

The Landlord and Tenant were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified they served their Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Landlord by posting it on the Landlord's door on September 15, 2021. The Landlord testified that package was for a future Residential Tenancy Branch (RTB) hearing, and that the Tenant did not serve the Landlord with any documents for today's hearing. This was not disputed by the Tenant.

The Landlord testified they served their responsive evidence on the Tenant by registered mail on September 2, 2021, and in person on September 13, 2021. The Tenant confirmed they received the documents in person on September 13, 2021.

As the Landlord had provided evidence to the Tenant and the RTB, was in attendance at the hearing, and prepared to proceed, I find the Landlord sufficiently served, in accordance with section 71 of the Act.

Issues to be Decided

Is the Tenant entitled to an order to cancel the One Month Notice?
If not, is the Landlord entitled to an order of possession?

Background and Evidence

The parties agreed on the following particulars of the tenancy. The tenancy began on February 15, 2018. The rent is \$780.00, due on the first of the month. The Tenant paid a security deposit of \$367.50, which the Landlord still holds.

The Landlord submitted a copy of the One Month Notice as evidence. The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states an effective date, states the reason for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because the Tenant is repeatedly late paying rent.

The Landlord testified they served the One Month Notice on the Tenant by posting it to the door of the rental unit on June 25, 2021. The Proof of Service document, submitted as evidence by the Landlord, indicates the same, and is signed by a witness. I note that the One Month Notice indicates it was signed by the Landlord on June 26, 2021. The Tenant testified they learned of the notice on July 6, 2021. The Tenant described that while they were away, a friend had brought the notice into the rental unit, where the Tenant later discovered it.

The Landlord testified the Tenant has paid rent late on 19 occasions, including January to August 2021; the Landlord stated the Tenant has not paid rent for September to November 2021. Documentary evidence submitted by the Landlord includes numerous warning letters to the Tenant regarding late rent, and several 10 Day Notices, including notices issued in February, May, and September 2021. A letter from the Landlord to the Tenant, dated July 5, 2021, states: "You have neglected to pay your rent in full and on time for the last 17 months."

In their affirmed testimony, the Tenant confirmed they have paid rent late "multiple" times, and acknowledged they "have not been an ideal tenant." In response to the Landlord's testimony, the Tenant stated they had paid rent on time for July 2021. The Tenant later testified they were aware of only two late rent payments for this year.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations, or the Tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

Residential Tenancy Policy Guideline [38. Repeated Late Payment of Rent](#) states: “Three late payments are the minimum number sufficient to justify a notice under these provisions.”

Based on the evidence before me, and on a balance of probabilities, I make the following findings:

I find that the tenancy agreement requires the Tenant to pay the Landlord rent of \$780.00 on the first day of each month.

I find that the Landlord served the Tenant the One Month Notice by posting it on the door of the rental unit on June 25, 2021, and in accordance with section 88 of the Act. I find that the One Month Notice meets the form and content requirements of section 52, and that the One Month Notice being incorrectly dated June 26, 2021, rather than June 25, 2021, was an administrative error on the part of the Landlord which does not affect the validity of the One Month Notice. As the One Month Notice was posted to the door of the rental unit on June 25, 2021, I deem it received by the Tenant on June 28, 2021, in accordance with section 90 of the Act.

I accept the Landlord’s affirmed testimony that the Tenant was repeatedly late paying rent, or did not pay rent, for months including January to November 2021.

The One Month Notice is upheld. As a result, and pursuant to section 55(1), the Landlord is granted an order of possession.

Conclusion

The Tenants' application is dismissed.

I hereby grant the Landlord an order of possession, which must be served on the Tenant and which is effective two (2) days from the date of service. This order 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: November 04, 2021

Residential Tenancy Branch