



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ACTION PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Tenant: CNR FF
Landlord OPC FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on December 14, 2021. The Tenant applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, and the Landlord applied for an order of possession based off a 1 Month Notice for Cause, pursuant to the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant’s application and Notice of Hearing. The Tenant confirmed receipt of the Landlord’s application, Notice of Hearing, and evidence. No issues were raised with service of the documentation.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

During the hearing, both parties confirmed that the Tenant paid his rent within the allowable time frame following 10 Day Notice. Both parties confirmed they would like to cancel the 10 Day Notice, issued on August 3, 2021, and both parties agreed to the Tenant’s application to cancel the 10 Day Notice being dismissed on this basis. By mutual consent, I hereby cancel the 10 Day Notice to End Tenancy, dated August 3, 2021, and dismiss the Tenant’s application to cancel the 10 Day Notice, without leave.

The only ground the Tenant applied for was to cancel the August 3, 2021, 10 Day Notice. Given this Notice was cancelled by mutual consent, I find it is not necessary to make any further determinations as to the Tenant's application.

The remainder of the decision will focus on the Landlord's application.

Issue to be Decided

- Is the Landlord entitled to an order of possession under the *Act*?

Background, evidence, and analysis

The Landlord testified that she served the Tenant with a One Month Notice to End Tenancy for Cause (the Notice), by posting a copy to the door of the rental unit on August 12, 2021. Proof of service was provided into evidence, as was a copy of the Notice. The Tenant acknowledged receipt of this Notice but did not recall when. Pursuant to section 88 and 90 of the *Act*, I find the Tenant is deemed to have received this Notice on August 15, 2021, the third day after it was posted to the Tenant's door.

The Notice indicates multiple reasons for ending the tenancy, and includes a "details of cause" section to explain the specifics. The Landlord provided an explanation regarding the disturbances cause by the Tenant, although the Tenant feels these claims are exaggerated.

Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, the Tenant is deemed to have received the Notice on August 15, 2021, and the Tenant had 10 days, until August 25, 2021, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the end of the tenancy. I find the Notice also complies with the form and content requirement under section 52 of the *Act*.

As such, I find the Landlord is entitled to an order of possession, which will be effective 2 days after it is served on the Tenant.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. I **authorize** the landlord to retain \$100.00 from the Tenant's \$412.50 security deposit (as laid out in the Landlord's application) in full satisfaction of the recovery of the cost of the filing fee.

Conclusion

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that 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 *Residential Tenancy Act*.

Dated: December 14, 2021

Residential Tenancy Branch