



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1105685 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on October 21, 2021 seeking an order of possession for the rental unit. They also applied for the Application filing fee; however, in the hearing they withdrew this piece. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on December 11, 2022. In the conference call hearing I explained the process and provided the parties the opportunity to ask questions.

Preliminary Matter

The Landlord provided notice of this dispute resolution hearing to each Tenant via registered mail, on December 2, 2021. They also remained in contact with the Tenants, as recently as the day prior to the scheduled hearing. The Tenant provided Canada Post tracking information for each package containing the Notice and their evidence documents. One package indicates delivery completed on December 24, 2021.

The Tenants’ support in the hearing indicated there was a lot of documentation provided. Given that the Tenants attended the hearing and had complete evidence with them at that time, I find the Landlord completed service in the manner specified by s. 89(1)(c) of the *Act*.

Issues to be Decided

Is the Landlord entitled to an Order of Possession for Cause pursuant to s. 55 of the *Act*?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement that the parties signed on April 25, 2020. This was a month-to-month tenancy that began on May 1, 2020. The amount of \$750 for rent did not vary during the tenancy which continued right up until the time of the hearing.

The Landlord submitted as evidence a copy of the One-Month Notice to End Tenancy for Cause (the "One-Month Notice") dated August 20, 2021. The Tenant referred to the document in the hearing and described their viewpoint of the issue of repeated late payments of rent. The Tenant added they had received other similar documents from the Landlord.

The Landlord provided that they served the document to each of the Tenants on August 23, 2021 via registered mail. This tracking information is in the Landlord's evidence, a separate piece for each Tenant.

The One-Month Notice provides that the Tenants had ten days from the date of service to apply for Dispute Resolution or the tenancy would end on the stated effective vacant date of September 30, 2021.

The Landlord provided that on the day prior to the hearing they had a discussion with the Tenants about ending the tenancy. The Landlord's interpretation of that discussion was that the parties mutually agreed to the February 28, 2022 end-of-tenancy date, with the Landlord refunding the Tenant that final month of rent in total when the Tenants moved out. The Tenant speaking to the matter in the hearing did not recall this agreement. The Tenant also spoke to the overall difficulty with securing another place to live due to miscellaneous hardships that are ongoing for them at this time.

The Landlord pledged they are willing to work with the Tenants on ending the tenancy appropriately; however, they still seek the Order of Possession.

Analysis

The *Act* s. 47 allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, a tenant is repeatedly late paying their rent.

Following this, s. 47(4) allows a tenant who receives a notice to end tenancy 10 days to apply for Dispute Resolution to cancel the notice. The following s. 47(5) stipulates that if a tenant fails to apply within 10 days, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and they must vacate the rental unit.

The Landlord sent the One-Month Notice via registered mail to the Tenant on August 23, 2021. I deem the document received by each Tenant, as per s. 90(a), on August 28, 2021.

I have reviewed the One-Month Notice, and find it complies with the form and content requirements of s. 52 of the *Act*. I find the Tenant did not contest the One-Month Notice within 10 days of service by September 7, 2021. Nor did they vacate the unit by the effective date of the One-Month Notice. I find that the Tenants are conclusively presumed to have accepted that the tenancy has ended in accordance with s. 47(5).

I find the Landlord had the authority to issue the Notice under s. 47 of the *Act*. I grant the Landlord's request for an Order of Possession under s. 55 of the *Act*. The Landlord is free to serve the Order of Possession to the Tenants in an appropriate manner when they wish to end the tenancy. Though the Landlord had a discussion with the Tenant about a mutual agreement, the Tenant did not recall the details and did not commit in the hearing to fulfilling any agreement. As such, the Landlord has an Order of Possession that they are legally entitled to. I do note the Landlord is open and actively working with the Tenants to end the tenancy in a manner benefitting the Tenants both in terms of timing, and with regard to financial compensation.

Conclusion

I grant an Order of Possession to the Landlord effective **TWO DAYS after service of this Order to the Tenants**. Should the Tenants fail to comply with this Order, the Landlord may file this Order with the Supreme Court of British Columbia where it will 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 s. 9.1(1) of the *Act*.

Dated: January 12, 2022

Residential Tenancy Branch