



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord and agent.

The landlord's agent testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on September 15, 2021 in accordance with Section 89 and that that service was witnessed by a third party.

Based on the undisputed testimony of the landlord's agent, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified the tenancy began on March 1, 2021 as a one-year fixed term tenancy for a monthly rent of \$1,300.00 due on the 1st of each month with a security deposit of \$650.00 paid.

The landlord testified that on July 7, 2021 they issued and served to the tenants a One Month Notice to End Tenancy for Cause with an effective vacancy date of August 7, 2021 citing the tenant has allowed an unreasonable number of occupants in the unit/site/property/park; the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another

occupant or the landlord; and a security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

In the Details of Events section of the Notice the landlord wrote:

“Tenant smokes marijuana inside the house and interferes with the elderly tenants upstairs. In contract it was indicated no pets. A cat was seen indoors the premises and not pet damage deposit was given.”

The landlord testified the tenants have a number guest coming and going from the rental unit and as a result of the noise and marijuana smoking they are disturbing the other occupants of the residential property.

The landlord also testified that there were to be no pets but when they found out there was a cat, they requested from the tenants a pet damage deposit. The tenants did not respond to the request and did not pay the pet damage deposit.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, one or more of the following applies:

- a) The tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- b) There are an unreasonable number of occupants in a rental unit;
- c) The tenant or a person permitted on the residential property by the tenant has
 - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

Section 47(2) states that a notice under this section must end the tenancy effective on a date that is not earlier than one month after the date the notice is received, and the day before the day in the month, that rent is payable under the tenancy agreement.

Section 47(4) allows a tenant to dispute a notice under Section 47 by making an application for dispute resolution within 10 days after the date the tenant **receives** the notice. I accept the landlord's undisputed testimony that the Notice to End Tenancy was served to the tenants personally on July 7, 2021. As such, I find the tenant had until July 17, 2021 to submit an Application for Dispute Resolution seeking to cancel the 1 Month Notice. There is no evidence before me that the tenants submitted an Application.

Section 47(5) states that a tenant who has received a notice under this section does not make an Application for Dispute Resolution in accordance with Section 47(4) (10 days)

to dispute the notice 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.

As such, in the absence of any evidence that the tenants submitted an Application seeking to cancel the Notice I find the tenants are conclusively presumed to have accepted the tenancy ends and they must vacate the rental unit.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail 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.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$100.00** comprised of the filing fee paid by the landlord for this application. I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$650.00 in satisfaction of this claim, pursuant to Section 72(2)(b) leaving a balance of \$550.00 to be dispersed in accordance with the *Act*, after the tenancy ends.

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: January 13, 2022

Residential Tenancy Branch