



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, CNC, OLC**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55;
- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55; and
- An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:20 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. 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 attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord did not dispute receipt of the tenant’s Notice of Dispute Resolution Hearing.

Issue(s) to be Decided

Should the notice to end tenancy be upheld or cancelled?

Should the landlord be required to comply with the Act, regulations or tenancy agreement?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy is with BC Housing and Management Commission (the “Commission”) and the tenant has agreed to vacate

the rental unit in favour of alternate housing secured for her by the Commission. The landlord testified that the tenant advised him on Tuesday, February 16th that she is agreement with the arrangement that has been set up for her and that the tenant would not likely call into the hearing.

The landlord testified that the reason for ending the tenancy with the tenant was for the unauthorized occupants, the tenant's son and his girlfriend, staying with the tenant and the complaints received by the other occupants of the building due to the son and his girlfriend's noise, drug use and behaviour. The tenant's guests have caused significant interference with the landlord and other occupants of the building.

The landlord served the tenant with multiple letters including the following:

A letter dated February 20, 2019, advising of noise issues and complaints about the tenant's guests.

December 17, 2019: second letter regarding the conduct of the tenant's guests, noise complaints and unauthorized guests in the unit. The landlord gives the tenant to December 31, 2019, for the tenant to comply with the request to have the unauthorized guests leave.

February 20, 2020: warning letter regarding the continued activity of the tenant's guests. If not rectified by February 28, 2020, the landlord will end the tenancy.

August 3, 2021: final warning to tenant that the son is back, causing noise and disruption. Warns tenant that she will receive a notice to end tenancy if the tenant does not have her son removed.

Finally, on September 28, 2021, the landlord personally served the tenant with a 1 Month Notice to End Tenancy for Cause. The landlord testified that a letter dated September 28, 2021, outlining the reasons for ending the tenancy was provided with the notice to end tenancy, however the tenant did not supply that letter for the hearing. The notice to end tenancy, provided as evidence for this hearing, provides several reasons for ending the tenancy, one of which is that the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so was given.

I note that the tenant did not provide a copy of a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities that she seeks to cancel, and the landlord provided no testimony regarding such a notice to end tenancy.

Analysis

I am satisfied the tenant was served with the 1 Month Notice to End Tenancy for Cause on September 28, 2021 in accordance with sections 88 and 90 of the Act and filed to dispute the notice within 10 days as required under section 47 of the Act.

The Residential Tenancy Branch Rules of Procedure state:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

The tenant did not attend this hearing to dispute any of the testimony provided by the landlord. Consequently, I find the landlord provided compelling evidence to satisfy me the tenant breached a material term of the tenancy agreement and didn't correct it within a reasonable time after written notice to do so was given. I uphold the landlord's notice to end tenancy for Cause issued on September 28, 2021.

Section 55 states:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the landlord's notice to end tenancy and find it complies with the form and content provisions of section 52. I grant the landlord an Order of Possession. As the effective date stated on the notice has passed, I grant the landlord and Order of Possession effective 2 days after service upon the tenant.

As this tenancy is ending, I dismiss the tenant's application seeking an order that the landlord comply with the Act.

The tenant's application seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities is dismissed without leave to reapply as the tenancy has ended pursuant to the landlord's notice to end tenancy for Cause.

Conclusion

I grant an Order of Possession to the landlord effective 2 days after service on the tenant. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: February 18, 2022

Residential Tenancy Branch