



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

JB gave the following testimony on behalf of the landlords. The tenancy began in 2015 with the rent of \$1400.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on December 1, 2021 for the following reasons:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(iii) put the landlord's property at significant risk;

JB testified that the tenant does not take care of the property that they have exclusive use to. JB testified that for several years the tenant continues to hoard numerous items on the property resulting in the local municipality sending warning letters that the property has been deemed "unsightly" and breaching the municipal by-law. JB testified that a file was opened against the property in April 2021 but was then brought into compliance resulting in that file being closed in May 2021.

However, shortly after that file was closed JB stated that she received numerous complaints from the adjacent neighbors that the property was unsightly and filled with clutter, garbage, debris and the tenants personal items. JB testified that on October 4, 2021 the local municipality again sent a letter advising that the property was in contravention of the by-law and again been deemed unsightly. JB testified that the letter stated the property had to be cleaned up within 15 days. JB testified that she advised the tenant but, no action was taken by the tenant.

JB testified that she received another warning letter on November 30, 2021 that the property was still not in compliance and that it had to be cleaned within 15 days. On December 1, 2021 the landlords issued the notice to end tenancy but again, no action taken by the tenant. On December 16, 2021 the municipality sent a letter to the

landlords that they would intervene and clean up the property at a cost of \$8350.00 to the landlord if the matter wasn't rectified. JB testified that she spoke to the tenant each time she received correspondence and would follow up by dropping off a copy of the letter the next day to the tenant. JB testified that the tenant has a clear pattern of non-compliance and ignores the local by-laws. JB requests an order of possession.

The tenant gave the following testimony. The tenant testified that the reason why the yard was so cluttered was due to her sons leaving numerous work material and their own personal projects on site. The tenant testified that her sons had lived with her for the past two years, and that's the reason why the property had gotten rundown. The tenant testified that her sons moved out in October of 2021, and that the property has now been cleaned up and is in compliance as of February 9th 2022. The tenant testified that the property would remain clean since her sons no longer live with her and if it doesn't, the landlords can evict her.

Analysis

When a landlord issues a notice under Section 47 of the Act they bear the responsibility in providing sufficient evidence to support the issuance of that notice. The landlords have shown a clear and consistent pattern of non-compliance and that the tenant only responded after numerous attempts were made and when municipal enforcement was on the brink of taking action. The tenant had numerous opportunities to rectify the matter over many months but chose to do nothing. Based on the above, I am satisfied that the landlord has provided sufficient evidence to support the issuance of the notice and that the tenant *"put the landlord's property at significant risk"*. I am satisfied that this tenancy must end.

Section 55 of the *Act* reads in part as follows:

55 (1) *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*

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's 1 Month Notice was issued on the correct form and included all of the required information in order to comply with section 52 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the 1 Month Notice and issue the landlord an Order of Possession in accordance with section 55(1) of the *Act*. The One Month Notice to End Tenancy for Cause issued on December 1, 2021 with the corrected effective date of January 31, 2022 is of full effect and force.

I also dismiss the tenants request to recovery the filing fee as they have not been successful in this application.

Conclusion

I dismiss the tenant's application to cancel the 1 Month Notice. I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed 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: March 29, 2022

Residential Tenancy Branch