



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC OLC

Introduction

This hearing was held in response to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 1 Month Notice to End Tenancy for Cause dated December 29, 2021 (1 Month Notice) and for an order directing the landlord to comply with the Act, regulation or tenancy agreement.

The tenant and the landlord attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties had the dispute resolution process explained to them and were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me. The parties were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As neither party raised any concerns regarding the service of evidence and the parties confirmed that they had the opportunity to review the evidence submitted by the other party, I find the parties to have been sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance

Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?
- Should the landlord be ordered to comply with the Act, regulation or tenancy agreement?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on August 1, 2020. Monthly rent in the amount of \$950.00 was due on the first day of each month. The parties agreed that the monthly rent was raised to \$964.00. The tenant paid a security deposit of \$475.00 at the start of the tenancy.

The tenant confirmed that they were served on December 29, 2021 with the 1 Month Notice alleging 2 causes as follows:

- ...person, or person in a common right or interest of another occupant of the landlord.
- ☒ Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
 - ☐ Tenant has not done required repairs of damage to the unit/site/property/park
 - ☒ Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The tenant disputed the notice on January 6, 2022 which is within 10 days of being served with the 1 Month Notice on December 29, 2021. The effective vacancy date on the 1 Month Notice is listed as January 31, 2022.

The Details of Cause section of the 1 Month Notice includes the following details from the landlord:

Details of Cause(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.

Details of the Event(s):

TENANT HAS DAMAGED KITCHEN CABINETRY, FLOORING, SUB STRUCTURE, WATER DAMAGE, AND EVIDENCE OF SMOKING INSIDE THE UNIT

The landlord submitted many coloured photos in support of damage caused by the tenant since the tenancy began. The landlord also presented the incoming Condition Inspection Report which was signed by both parties and confirmed that the tenant agreed that the incoming Condition Inspection Report was accurate.

The landlord first raised the issue of cabinet damage, which the landlord stated would be over \$1,200.00 to replace and that the tenant has caused at least \$2,956.00 in damage according to the document submitted by the landlord. Over 30 colour photos were submitted which clearly support that the kitchen cabinets had severe water damage and that the cabinets were beyond repair and would have to be replaced. The landlord testified that the kitchen cabinets were only 8-9 years old as of the date of the hearing. In addition, other photos show a very dirty rental unit that appears to support a hoarding behaviour.

The tenant's response to the damage to the kitchen cabinets is that they only wiped down the cabinets with water and the tenant believes they did not damage the cabinets. At this point in the hearing, the parties were advised that the tenant's testimony conflicts with the evidence before me and that I found the 1 Month Notice was valid for the reasons I will set out below.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

1 Month Notice to End Tenancy for Cause – I find the photo evidence supplied by the landlord supports that the tenant has caused extraordinary damage to the rental unit including the kitchen cabinets, which I find are beyond repair due to water damage and will require replacement. I find the tenant's response to be contradictory to the photo evidence and that it is more likely than not that the tenant or their guest either left the water on or have been letting water spill over the cabinets for a long period of time to cause the damage shown in the photo evidence.

Therefore, based on the above, I find the landlord has met the burden of proof by proving that that the tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit. Given the above, **I dismiss** the tenant's application in full, without leave to reapply. **I uphold** the landlord's 1 Month Notice.

As the tenant's application has been dismissed, I find it is not necessary to consider the second cause listed on the 1 Month Notice, relating to the breach of a material term of the tenancy agreement. Section 55 of the Act states:

Order of possession for the landlord

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.**

[emphasis added]

Given the above and considering that I find the 1 Month Notice complies with section 52 of the Act, I must grant the landlord an order of possession. The parties agreed that money has been paid for April 2022, so I grant the landlord an order of possession effective **April 30, 2022 at 1:00 p.m.**

I find the tenancy ended on January 31, 2022, which is the effective vacancy date listed on the 1 Month Notice.

Conclusion

I dismiss the tenant's application to cancel the 1 Month Notice.

I uphold the 1 Month Notice issued by the landlord.

The tenancy ended January 31, 2022.

The landlord has been granted an order of possession effective April 30, 2022 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The tenant is cautioned that they can be held liable for all costs related to enforcing the order of possession.

This decision will be emailed to the landlord and sent via regular mail to the tenant.

The order of possession will be emailed to the landlord for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 5, 2022

Residential Tenancy Branch