



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on January 17, 2022 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a One Month Notice for Cause date January 15, 2022 (the "One Month Notice"); and
- an order granting the return of the filing fee.

The hearing was scheduled for 1:30PM on April 14, 2022 as a teleconference hearing. The Landlord and their Agent M.E. attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 14 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that Landlord, the Landlord's Agent, and I were the only persons who had called into this teleconference.

Preliminary Matters

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As no one attended the hearing for the Tenants, I dismiss the Tenants' application without leave to reapply.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that is compliant with the Act.

The Landlord and the Landlord's Agent were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession in relation to the One Month Notice, pursuant to Section 55 of the Act?

Background and Evidence

The Landlord stated that the tenancy began on May 28, 2020. The Tenants are required to pay rent in the amount of \$1,850.00 to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$925.00 which the Landlord continues to hold. The Landlord stated that the tenant continues to occupy the rental unit.

The Landlord submitted the following statements:

"Condensation on living room and bedroom windows that started since Nov 2021. The condensation has led to molding of walls and ceilings, and warping and staining of the window ledges. These damages were not communicated to the landlord and were only found after inquiry from the landlord. Repairs were done in Dec 2021, which were paid for by the landlord. The landlord has bought the tenants a dehumidifier and given instructions on how decrease humidity levels in the home to eliminate condensation. Upon inspection on Jan 15, 2022, there is new molding of the ceilings, warping of the window ledges, and lifting of the hardwood floor by the living room window, all of which was not communicated to the landlord. There continues to be worsening damage to the unit by the tenants, who seem to be putting no effort in preventing the damages."

For the above-mentioned reasons, the Landlord stated she served the Tenants via email with the One Month Notice on January 15, 2022 with an effective vacancy date of

February 28, 2022. The Landlord's reasons for ending the tenancy on the One Month Notice are;

"The Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the unit/site or property/park."

As previously noted, the Tenants applied to dispute the on January 17, 2022 however no one attended the hearing in support of the Application.

Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant by email with a One Month Notice on January 15, 2022 with an effective vacancy date of February 28, 2022. Pursuant to Section 88 and 90 of the Act, the Tenant is deemed to have received the One Month Notice on January 18, 2022.

After receiving the One Month Notice, the Tenants made an Application to cancel the One Month Notice on January 17, 2022. As no one attended the hearing for the Tenants, their Application to cancel the One Month Notice is dismissed without leave to reapply.

Section 55 of the Act requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the Act.

I find that the One Month Notice complies with the requirements for form and content. I further find the Landlord has provided sufficient evidence to demonstrate that the Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the rental unit.

As the effective date of the One Month Notice has passed. I find that the Landlord is entitled to an order of possession. During the hearing, the Landlord stated that she was agreeable to ending the tenancy on April 30, 2022. As such, I provide the Landlord with an Order of Possession effective April 30, 2022, at 1:00PM, after service on the Tenants, pursuant to section 55 of the Act. This order should be served onto the Tenants as soon as possible.

Conclusion

The Tenants did not appear at the time of the hearing; therefore, their Application is dismissed in its entirety without leave to reapply.

The Landlord is granted an order of possession, which will be effective at 1:00PM on April 30, 2022 after service on the Tenants. If the Tenants fail to comply with the order of possession it may be filed in 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: April 19, 2022

Residential Tenancy Branch