



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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was represented by its agents.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The tenant testified that they received the landlord's materials and had not served any materials themselves. Based on the undisputed testimonies I find the tenant duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. The monthly rent for this tenancy is \$494.00. The landlord holds a security deposit of \$255.00. The landlord issued a 1 Month Notice to End Tenancy for Cause dated November 5, 2021 with an effective date of December 31, 2021. The landlord served the 1 Month Notice by posting on the rental unit door on that date. The tenant confirmed receipt of the 1 Month Notice and testified that they have not filed an application to dispute the notice.

The reasons provided on the notice for the tenancy to end include:

Tenant has allowed an unreasonable number of occupants in the unit/site

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*

Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord writes in the Details of the Cause that:

Tenant has unauthorized occupants after being told she is not allowed to and after several caution notices and breach of tenancy notice still breaches tenancy
Tenant and/or guests continually disturb neighbours with noise and drug activity
Tenants son used storage unit to store stole items. Police have arrested him for this activity

Analysis

Section 47(4) of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

Section 47(5) provides that a tenant who has received a notice does not make an application to dispute within the statutory timeline is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

I accept the undisputed evidence of the parties that the tenant was served with the 1 Month Notice by posting on the rental unit door on November 5, 2021. The tenant confirmed receipt of the notice and that they have not filed an application to dispute the notice. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ends on the corrected effective date of the 1 Month Notice, December 31, 2021.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy.

Therefore, in accordance section 55 of the *Act*, I find that the landlord is entitled to an Order of Possession. As the effective date of the Notice has passed and the landlord made an oral request for an Order effective May 31, 2022, I issue such an order accordingly.

As the landlord was successful in their application, they are entitled to recover their filing fee from the tenant. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of this monetary award issued in the landlord's favour

Conclusion

I grant an Order of Possession to the landlord effective **1:00PM on MAY 31, 2022**.
Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 from \$255.00 to \$155.00.

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: May 9, 2022

Residential Tenancy Branch