



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

On February 15, 2022, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

This hearing was scheduled to commence via teleconference at 11:00 AM on May 24, 2022.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:16 AM. Only the Landlord attended the hearing, with J.C. attending as a co-owner, and B.C. attending as an agent for the Landlord. 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 Tenant did not call into this teleconference at any point during the 16-minute teleconference. At the outset of the hearing, I informed the parties that recording of the hearing was prohibited. As well, all parties in attendance provided a solemn affirmation.

As the Tenant did not attend the hearing, his Application has been dismissed without leave to reapply.

B.C. advised that the Landlord's evidence was put on an USB stick and served to the Tenant by hand on May 10, 2022. She testified that they asked the Tenant if he was able to view this evidence, and the Tenant confirmed that his daughter or his advocate would be able to assist. Furthermore, she stated that they spoke with the Tenant a week later, and he never mentioned that he was unable to view this evidence. Based on this undisputed testimony, as the Landlord's evidence was served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted all of the Landlord's evidence and will consider it when rendering this Decision.

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 complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

B.C. advised that the tenancy started on January 15, 2016, that the rent was established in the amount of \$1,350.00 per month, and that it was due on the 26th day of each month. A security deposit was paid in the amount of \$675.00. A copy of the signed tenancy agreement was submitted as documentary evidence.

She testified that the Notice was served to the Tenant on February 9, 2022 by posting it to his door. The reasons the Landlord served the Notice are because the "Tenant has allowed an unreasonable number of occupants in the unit/site/property/park", the "Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk", the "Tenant or a person permitted on the property by the

tenant has caused extraordinary damage to the unit/site or property/park', and the "Tenant has assigned or sublet the rental unit/site/property/park without landlord's written consent." The Notice also indicated that the effective end date of the tenancy was March 31, 2022.

B.C. advised that the rental unit was fully renovated at the start of the tenancy, but the Tenant has caused an excessive amount of damage to the rental unit from a flood. In addition, there were broken windows and doors, and a host of other damage. Moreover, the Tenant has sublet the rental unit without the Landlord's consent. She referenced a number of pictures and other documentary evidence to support the Landlord's position.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

In considering this matter, I have reviewed the Landlord's One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52. Therefore, I find that it is a valid Notice.

I find it important to note that Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

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:

(c) there are an unreasonable number of occupants in a rental unit;

(d) the tenant or a person permitted on the residential property by the tenant has

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

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34.

The undisputed evidence before me is that the Tenant has caused a number of unacceptable issues during the tenancy prior to service of the Notice. As such, I am satisfied that there is a consistent pattern of behaviours throughout the months leading up to the issuance of this Notice that warranted its service. Consequently, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 47 and 55 of the *Act*. As such, the Order of Possession takes effect **two days** after service on the Tenant.

As the Tenant was not successful in this claim, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

The Tenant's Application is dismissed without leave to reapply.

The Landlord is provided with a formal copy of an Order of Possession effective **two days after service of this Order** on the Tenant. 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.

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 24, 2022

Residential Tenancy Branch