



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order of Possession for Cause, based on a One Month Notice to End Tenancy for Cause dated January 12, 2022 ("One Month Notice"); and to recover the \$100.00 cost of his Application filing fee.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 15 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

I explained the hearing process to the Landlord and gave him an opportunity to ask questions about it. During the hearing the Landlord was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that he served the Tenant with the Notice of Hearing documents and his evidence by posting a copy to the rental unit door on February 16, 2022. The Landlord provided a proof of service form signed by a witness to the service, as evidence of service. I asked the Landlord if he had discussed the hearing with the Tenant at all, and he said that the Tenant told him he had some documents, although, the Tenant did not submit any evidence to the RTB, nor to the Landlord. Based on the evidence before me overall on this matter, I find that the Tenant was deemed served

with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Landlord's Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenant.

Preliminary and Procedural Matters

The Landlord provided his email address in the Application and he confirmed it in the hearing; further, he said he did not know the Tenant's email address. The Landlord confirmed his understanding that the Decision would be emailed to the Landlord and mailed to the Tenant at the rental unit address, and any Orders sent to the appropriate Party in this way.

At the outset of the hearing, I advised the Landlord that he is not allowed to record the hearing and that anyone who was recording it was required to stop immediately. The Landlord affirmed that he was not recording the hearing.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to recovery of his \$100.00 Application filing fee?

Background and Evidence

The Landlord advised that the periodic tenancy began on July 1, 2021, with a monthly rent of \$650.00, due on the first day of each month. The Landlord confirmed that the Tenant paid him a security deposit of \$325.00, and no pet damage deposit. The Landlord confirmed that he still holds the Tenant's security deposit in full.

The Landlord submitted a copy of the One Month Notice, and in the hearing, he confirmed that it was signed and dated January 12, 2022; it has the rental unit address; it was served by attaching a copy to the rental unit door on January 12, 2022, with an effective vacancy date of February 28, 2022; and it was served on the grounds that:

- the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the Landlord;
- put the Landlord's property at significant risk; and

- the Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to: jeopardized a lawful right or interest of another occupant or the Landlord.

In the hearing, the Landlord confirmed that these claims on the One Month Notice are still true. I asked the Landlord why he served the Tenant with the One Month Notice and he said:

He is a drug dealer and he sets up shop in the building. Therefore, many people come during the day and night, and especially during the night. This disturbs the tenants who cannot sleep. His clients stay in the building and use the wash-rooms, and it's all in a mess. And then we ganged up when we tried to kick them out. One month ago, we told them to leave. There were three or four of them and they hounded us. Also, he changed the lock to his room. He's staying there with more than one person. They bring their bikes in, and in the morning, we have to unclog the toilets, and the sinks.

I asked the Landlord how he knows the Tenant is a drug dealer, and he said:

The tenants told me. And the other day we saw somebody breaking into the door. They were shooting and all those - those things.

One [tenant] is leaving because of him. There is a difference between drug dealers and users; the dealers are the most problem - they bring people in - these persons were corrupting everybody - encouraging them to sell and to buy. That's the situation.

The Landlord submitted texts that he had received from other tenants in the building about the Tenant. These include [reproduced as written]:

Wednesday, Dec. 1 . 8:55 a.m.

Talked to [the Tenant]. He promised hed behave. Told him we can't have people yelling at his window trying to by drugs. Don't worry he's ok. LoL see if he's good for a few weeks.

Monday Jan 10 . 11:40 a.m.

3 people living next door. Room is full of garbage and needles. 24 hour in and out tons of people...LoL heroin addicts 24.7. Sorry but didn't want to tell you in the hall.

Monday Jan 17

When you evict [the Tenant] you need a Sherriff and a locksmith. He changed his lock. Don't say anything or he will know I told you. Guys still screaming up at his window. Thanks.

Sunday, Jan 23 . 12;24 p.m.

Just letting you know [the Tenant] is going to be a problem. His lock is changed and he is running a shooting gallery in his room. On eviction day you might need a cop. Lol sorry just giving you a heads up. Otherwise thanks and have a great day.

The Landlord submitted a copy of a handwritten letter from other tenants in the residential property dated February 5, 2022, and signed by eight people. This letter states:

To the Tenancy Branch,

This is a complaint against [the Tenant], room [rental unit address].

He brings drug dealers non-stop to his room, day and night, we cannot sleep, and they loiter in the washrooms, shooting themselves and dirtying and clogging the toilets and flooding the floors. They threaten all the tenants, they leave the syringes lying around. We can't use the washrooms as they are occupying them.

Respectfully,
[eight names and signatures]

In the hearing, the Landlord said: "I'm trying to keep the building safe, but when a drug dealer is there, it changes the whole situation."

Analysis

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

Section 47 of the Act allows the landlord to end a tenancy for cause:

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

...

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

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

Rule 6.6 sets out the standard of proof and the onus of proof in dispute resolution proceedings, as follows:

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

In this case, the Landlord alleged that the Tenant was dealing drugs in the residential property, which disturbed other tenants in the building. He said the other tenants have told him this, and have sent him complaint letters confirming what they told the Landlord.

When I consider all the evidence before me overall, I find that the Landlord has provided sufficient evidence to meet his burden of proof on a balance of probabilities, and to support the validity of the One Month Notice.

I also find that the One Month Notice issued by the Landlord complies with section 52 of the Act as to form and content. Given the above, and pursuant to section 55 of the Act, I find that the Landlord is entitled to an Order of Possession.

Therefore, and **pursuant to section 55** of the Act, I grant the Landlord an **Order of Possession, effective two days after it is served** to the Tenant.

Given his success in this matter, I also award the Landlord with recovery of his **\$100.00** Application filing fee from the Tenant, pursuant to section 72 of the Act. The Landlord is authorized to retain \$100.00 from the Tenant's \$325.00 security deposit in complete satisfaction of this award.

Conclusion

The Landlord is successful in his Application for an Order of Possession pursuant to the One Month Notice he served to the Tenant, as the Landlord provided sufficient testimony and documentary evidence to support his Application.

I grant the Landlord an **Order of Possession effective two days after it is deemed served** to the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is also awarded recovery of his \$100.00 Application filing fee from the Tenant. The Landlord is authorized to retain **\$100.00** from the Tenant's \$325.00 security deposit in complete satisfaction of this award.

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: May 16, 2022

Residential Tenancy Branch