



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Plan A Real Estate Services
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Landlord applied on February 10, 2022 for:

- an order of possession, having served a One Month Notice to End Tenancy for Cause, dated January 10, 2022; and
- the filing fee.

The hearing started promptly at 1:30 p.m. The Landlord was represented by two agents, KH and AM; the Tenant did not attend. Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

KH testified that she posted the Notice of Dispute Resolution Proceeding (NDRP) and evidence to the Tenant's door on February 18, 2022 around 6:30 p.m. Based on KH's affirmed undisputed testimony, I find the NDRP and evidence served on the Tenant on February 18, 2022 in accordance with section 89 of the Act, and deem them received by the Tenant on February 21, 2022, in accordance with section 90 of the Act.

Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The Landlord provided the following particulars regarding the tenancy. It began May 1, 2020; rent is \$1,500.00, due on the first of the month; and the Tenant paid a security deposit of \$650.00, which the Landlord still holds.

A copy of the One Month Notice is submitted as evidence. It is signed and dated by the Landlord, gives the address of the rental unit, states the effective date of the Notice, states the grounds for ending the tenancy, and is in the approved form.

KH testified the One Month Notice was served on the Tenant by posting it to the door on January 10, 2022; a witnessed proof of service form was submitted as evidence. KH testified she was not aware of the Tenant filing an application to dispute the Notice.

The reason indicated on page 2 of the One Month Notice is that the Tenant is repeatedly late paying rent. The Details of Events section lists multiple dates the Tenant paid rent late.

A ledger is submitted as evidence, showing the Tenant's payments. The ledger shows that the Tenant paid rent late December 2021–May 2022, as well as in previous months.

Analysis

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

I find that the One Month Notice is deemed received by the Tenant on January 13, 2022, three days after posting, in accordance with sections 88 and 90 of the Act.

I find that the Landlord's One Month Notice meets the form and content requirements of section 52 of the Act as it is signed and dated by the Landlord, gives the address of the rental unit, states an effective date of the notice, states the reasons for ending the tenancy, and is in the approved form.

I find that the Tenant has failed to file an application for dispute resolution within 10 days of January 13, 2022, the timeline granted under section 47(4) of the Act. 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 effective date of the One Month Notice, February 28, 2022, and must vacate the rental unit.

Therefore, in accordance with section 55 of the Act, I find that the Landlord is entitled to an order of possession.

As KH has testified that the Tenant still occupies the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, May 20, 2022.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord is successful in their application, I order the Tenant to pay the \$100.00 filing fee the Landlord paid to apply for dispute resolution.

In accordance with section 72 of the Act, I allow the Landlord to retain \$100.00 of the Tenant's security deposit in satisfaction.

The security deposit for this tenancy is reduced by \$100.00 to \$550.00.

Conclusion

The Landlord's application is granted.

The Landlord is granted an order of possession which will be effective May 31, 2022 at 1:00 p.m. The order of possession must be served on the Tenant. The order of possession 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 20, 2022

Residential Tenancy Branch