



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SENIOR CITIZENS HOUSING OF SOUTH
SURREY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) by the tenant to cancel a 1 Month Notice to End Tenancy for Cause dated February 24, 022 (1 Month Notice). The filing fee was waived for this application.

The tenant, counsel for the landlord, AM (counsel), a building manager for the landlord, DB (manager), and a member of the Board of Directors for the corporate landlord, MG (member) attended the teleconference hearing. The parties, except for counsel who has already sworn an oath when called to the BC Bar) gave affirmed testimony and/or submissions. All participants were provided the opportunity to present their evidence orally and in documentary form and make submissions to me. The participants confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. The tenant admitted that she did not want to review the evidence but had the opportunity to do so. The tenant also confirmed they did not serve any evidence on the landlord. As a result, I find the tenant was served in accordance with the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

I have reviewed all 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.

Preliminary and Procedural Matter

The landlord confirmed their email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The tenant was given the opportunity to provide their email address but admitted that they don't check their email very often and only at the library, so would prefer to receive the decision via regular mail.

Issue to be Decided

- Should the 1 Month Notice cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on April 1, 2021. Monthly rent in the amount of \$750.00 is due on the first day of each month. A security deposit of \$375.00 was paid by the tenant at the start of the tenancy, which the landlord continues to hold.

The tenant confirmed that they received the 1 Month Notice but indicated a date 2 days earlier than the 1 Month Notice was issued, which could not be correct. The manager stated the 1 Month Notice was slipped under the door of the rental unit on February 24, 2022, and the tenant confirmed it was received.

The tenant applied to dispute the 1 Month Notice on March 4, 2022, which is within the allowable 10 days of the 1 Month Notice being dated and served. The effective vacancy date listed on the 1 Month Notice was March 31, 2022.

The 1 Month Notice lists 6 causes as follows:

<input checked="" type="checkbox"/>	Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
<input checked="" type="checkbox"/>	Tenant has not done required repairs of damage to the unit/site/property/park
<input checked="" type="checkbox"/>	Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
<input checked="" type="checkbox"/>	Tenant or a person permitted on the property by the tenant has (check all boxes that apply):
<input checked="" type="checkbox"/>	significantly interfered with or unreasonably disturbed another occupant or the landlord.
<input checked="" type="checkbox"/>	seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
<input checked="" type="checkbox"/>	put the landlord's property at significant risk

The parties were advised that due to the landlord having the onus of proof, the landlord would present their evidence first. The landlord referred to a timeline document which indicated a sewer smell emanating from the rental unit and that an inspection was scheduled for October 19, 2021 and that due to the unaccepted condition of hoarding and feces on and around the toilet that was clogged with feces and toilet paper covering the toilet and floor that the tenant was issued a warning letter dated October 20, 2021. The tenant did not deny receiving the warning letter. Four photos were reviewed from the October 19, 2021 inspection which showed an entry area that was full of items restricting access, a rear patio full of junk and random items stacked up, what the landlord described as a sewer water leak from the entryway into the hallway carpet, and the toilet described above.

About one month later, on November 24, 2021 the rental unit was inspected again and a video of the inspection was submitted, which was reviewed during the hearing. The video shows clear evidence of hoarding with all floors and surfaces being full of random items including open food, flies, feces, and items placed on the toilet as a storage space.

The tenant was asked why the rental unit was not cleaned and the hoarding mess addressed between the warning letter dated October 20, 2022 and the next inspection on November 24, 2021. The tenant replied, "I don't have any help and I have medical issues including incontinence for one." The tenant was asked if they made any attempt to get help and the tenant stated, "I don't have any family to help me", so the tenant was asked if they made any attempt to seek assistance from an organization and they said, "Sources" and not other supporting testimony.

Counsel also presented 5 complaint letters from four other tenants in the building, all complaining about a sewer smell from the rental unit before me, and behavioural concerns from the tenant.

At this point in the hearing, the parties were advised that I was satisfied that the 1 Month Notice was valid due to overwhelming evidence from the landlord to support the 1 Month Notice.

The tenant admitted they have not paid half of June 2022 rent, however, counsel said they are seeking an order of possession for June 30, 2022, which is the end of the month and not a 2-day order of possession.

Counsel also committed to providing the tenant with a copy of the decision when the order of possession is emailed to the landlord.

The participants did not have questions at the end of the hearing.

Analysis

Based on the above, the documentary evidence and the testimony of the parties, and on a balance of probabilities, I find as follows.

The 1 Month Notice has an effective vacancy date of March 31, 2022, which has passed. The tenant disputed the 1 Month Notice within the 10-day timeline provided for under section 47 of the Act to dispute a 1 Month Notice. Once a 1 Month Notice is disputed, the onus of proof is on the landlord to prove that the 1 Month Notice is valid.

One of the causes the landlord has alleged is that the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk. Firstly, I find that the photos support that the tenant has been hoarding in the rental unit and has had excessive garbage, personal items, fecal matter, substantial used toilet paper and other items such as flies and open food in the rental unit both on October 19, 2021 and the next inspection on November 24, 2021.

Secondly, and most concerning, I find the tenant has failed to address the hoarding and what I find to be significant health issues present in the rental unit due to a toilet that was covered in fecal matter, used as storage, and used toilet paper throughout the bathroom with all flooring and shelving being full of either garbage or random items.

Given the above, I find the landlord has provided sufficient evidence to support that the 1 Month Notice is valid and as a result, **I dismiss** the tenant's application to cancel the 1 Month Notice. I find it is not necessary to consider any of the other causes listed on the 1 Month Notice.

Pursuant to section 55 of the Act and considering that I find the 1 Month Notice complies with section 52 of the Act as it is signed and dated and on the proper form, I must grant an order of possession to the landlord. Therefore, I find the tenancy ended on March 31, 2022, the effective date listed on the 1 Month Notice. Based on the agreement of counsel, I grant the landlord an order of possession effective **June 30, 2022 at 1:00 p.m.**

As the filing fee was already waived, it is not granted.

Conclusion

The tenant's application is dismissed without leave to reapply. The 1 Month Notice issued is valid and is upheld. The tenancy ended on March 31, 2022.

The landlord is granted an order of possession effective June 30, 2022 at 1:00 p.m. This order must be served on the tenant and then may be filed in the Supreme Court of British Columbia and enforced as an order of that court. The tenant may be held liable for the costs associated with enforcing the order of possession if they fail to vacate as required.

This decision will be emailed to the landlord and sent via regular mail to the tenant. The order of possession will be emailed to the landlord only for service on the tenant. Counsel committed to providing the decision and order of possession to the tenant also.

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: June 23, 2022

Residential Tenancy Branch