



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANFORD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for An order of possession for cause pursuant to sections 47 and 55.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 11:00 a.m. and ended at 11:12 a.m. 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 landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by JO (“landlord”). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he served the tenant with the Notice of Dispute Resolution Proceedings by posting a copy of the document with associated documents on the tenant’s door on April 21, 2022 at 12:15 p.m. The landlord testified that immediately after posting the Notice of Dispute Resolution Proceedings to the tenant’s door, the tenant opened his door, removed it and said, “F... You, see you in court” to the landlord. The landlord testified that he also personally served a reminder letter to the tenant on July 28th, reminding him of the hearing taking place today. The tenant accepted the letter and returned to his room. I am satisfied the tenant was effectively served with the Notice of Dispute Resolution Proceedings on April 24, 2022, three days after it was posted to his door in accordance with sections 89 and 90 of the Act. This hearing proceeded in the absence of the tenant.

Issue(s) to be Decided

Should the landlord’s notice to end tenancy for cause be upheld or cancelled?

Background and Evidence

The landlord testified that he personally served the tenant with the 1 Month Notice to End Tenancy for Cause on February 17, 2022. The tenant signed a proof of service form acknowledging the service on that date, provided as evidence for this hearing.

A copy of the notice to end tenancy was provided as evidence. The landlord listed 3 reasons for ending the tenancy:

1. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
2. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
3. breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

The landlord testified that the tenant did not file an application to dispute the notice.

The landlord testified that the tenant is a hoarder and there is so much "stuff" in the tenant's unit that you can't even see the floor. The tenant's hoarding is the main source of cockroaches in the building. Other tenants living on the same floor as the tenant have to put roach powder all around their units to keep them out.

On March 24, 2022, the tenant was seen on camera kicking doors on the 7th floor at 2 a.m. in the morning. The tenant lives on the 9th floor. The tenant approached the staff at the front desk, telling them he will rip their throats out. The police were called, and they arrested the tenant. On March 3, 2022, the tenant had set his unit on fire. The fire department was called and successfully put the fire out.

Analysis

I have reviewed the landlord's notice to end tenancy and find it complies with the form and content provisions as set out in section 52 of the Act which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form..

I am satisfied the tenant was served with the 1 Month Notice to End Tenancy for Cause on February 17, 2022 in accordance with sections 88 and 90 of the Act. Pursuant to section 47(4), the tenant had 10 days to file an application to dispute the notice. If the tenant fails to file an application to dispute the notice in accordance with section 47(4), the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Further, section 55(2) states that a landlord may request an Order of Possession by making an application for dispute resolution when a notice to end tenancy has been given to the tenant, the tenant has not disputed the notice, and the time for making that application has expired. Pursuant to section 55(4), in this circumstance, the director may, without any further dispute resolution process under part 5 [Resolving Disputes], grant the order of possession.

The circumstances described above apply to the application before me. Although the tenant had the opportunity to do so, he did not file an application to dispute the Notice within 10 days, by February 27, 2022, or attend the scheduled Dispute Resolution Hearing. Since the tenant did not file for dispute resolution, he is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must move out of the unit.

As March 30, 2022, the effective date of the Notice has already passed, I find that the landlord is entitled to an order of possession, effective two days after service upon the tenant, pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: August 05, 2022

Residential Tenancy Branch