



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HARD PACKED INVESTMENT
LIMITED and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **RP, CNC**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to carry out repairs pursuant to section 32;
- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47;

Attendance

The landlord attended the hearing and had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The landlord called the witnesses KK, AL and MB, all of whom provided affirmed testimony.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional twenty minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

Service upon Landlord

The landlord provided affirmed testimony that the landlord received the Notice of Hearing and Application for Dispute Resolution sent by registered mail.

Order of Possession

I informed the landlord that in the event I dismissed the tenant's application to cancel the Notice issued in compliance with the Act, I was required under section 55 of the Act to grant an order of possession in favour of the landlord. Section 55 states as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Issue(s) to be Decided

Is the tenant entitled to the relief requested?

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord provided uncontradicted evidence as the tenant did not attend the hearing. The landlord testified that the tenancy began in 2017. Rent is \$70.00 and the tenant provided a security deposit of \$300.00.

The landlord issued a One Month Notice dated and served June 7, 2022. The landlord testified they posted the Notice to the tenant's door, thereby effecting service 3 days later, June 10, 2022. A copy of the Notice was submitted which is in the standard RTB form. The effective date of the Notice was July 7, 2022, corrected to July 31, 2022.

The reasons listed in the Notice are:

1. Tenant has allowed an unreasonable number of occupants in the unit/site.
2. Tenant or a person permitted on the property by the tenant has (check all boxes that apply):
 - a. significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - b. put the landlord's property at significant risk
3. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
4. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The Notice stated as follows. The landlord has received complaints of noise, illegal activity and unauthorized occupants at the unit. The noise included the tenant's "extreme screaming, curse words during afternoon and night". There has been illegal drug possession and use at the unit. All the windows in the unit are broken. The police have been called many times.

The landlord testified to the veracity of the causes as listed in the Notice. The witnesses KK and AL testified to uncontrolled ongoing screaming by the tenant at different times throughout the day and night. As a result, they have had disturbed sleep and called the police many times. They testified the tenant's behaviour is getting worse.

The witness PB testified as follows. He lives across the street from the unit. The tenant chased his young child. Because of the tenant's ongoing and worsening screaming and behaviour, his children will not go outside.

The tenant has not vacated the unit. The tenant filed an application to cancel the Notice on June 17, 2022 within ten days but has failed to attend the hearing of the application.

The landlord requested an Order of Possession as soon as possible.

Analysis

While I have turned my mind to the admissible documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the applicant did not attend the hearing and in the absence of any evidence or submissions on behalf of the applicant, I order the tenant's application dismissed without leave to reapply.

As the tenant has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the One Month Notice as well as the other relief requested by the tenant.

Pursuant to section 55(1), the director must grant to the landlord an Order of Possession of the rental unit if the landlord's notice to end tenancy complies with section 52 and the tenant's application is dismissed.

I determine the landlord's Notice complies with section 52. I have dismissed the tenant's application. I therefore find the landlord is entitled to an Order of Possession.

Conclusion

I dismiss the tenant's application without leave to reapply.

I grant the landlord an Order of Possession which is effective two days after service on the tenant.

The landlord must serve this order on the tenant.

If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia enforceable as an order of that Court.

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 15, 2022

Residential Tenancy Branch