



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 690324 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Tenant: CNC, LRE, RR, RP
Landlord: OPC, FFL

Introduction

On April 29, 2022 the Tenant applied for dispute resolution for:

- cancellation of the One-Month Notice to End Tenancy for Cause (the “One-Month Notice”);
- repairs in the rental unit after requesting them to the Landlord in writing;
- reduced rent for repairs not provided;
- suspension/set conditions on the Landlord’s right to enter the rental unit.

On May 3, 2022 the Landlord applied for an order of possession of the rental unit and reimbursement of the Application filing fee.

These Applications were crossed and proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 29, 2022. The Landlord attended the telephone conference call hearing; the Tenant did not attend.

Preliminary Issue –parties’ service of Notice of Dispute Resolution Proceeding

To proceed with this hearing, I must be satisfied that the parties made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution related to their Application for this hearing. This means there must be proof that they served the document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

The Landlord attended the hearing and advised the Tenant did not notify them of their original Application for cancellation of the notice, and other items. The Tenant did not attend to prove otherwise.

The *Act* s. 59 sets out that an applicant must give a copy of the Notice of Dispute Resolution Proceeding within 3 days of receiving it. Additionally, the *Residential Tenancy Branch Rules of Procedure* that are crafted to ensure a fair process, specify the documents to be served by an applicant to the respondent.

I find the Tenant did not provide a copy of the Notice – that document that is generated when a person applies for dispute resolution – to the Landlord. Records at the Residential Tenancy Branch verify that the Branch sent the Notice to the Tenant electronically on May 10, 2022 at 3:35pm. This included 4 attachments to that email. The message explicitly states that the Tenant must serve the packages to the Landlord no later than May 13, 2022.

The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I find the Tenant had Notice delivered to them in due course from the Residential Tenancy Branch, then failed to serve it as the *Act* requires. I dismiss the Tenant's Application for Dispute Resolution for this reason.

The Landlord set out how they served their Notice of Dispute Resolution Proceeding to the Tenant using registered mail on May 12, 2022, the day after they received the Notice from the Residential Tenancy Branch. The Landlord's evidence they provided for this matter contains copies of the registered mail tracking record and identifying tracking numbers. The Landlord provided "Proof of Service" documents to show a witness saw the Landlord provide extra evidence to the Tenant for this hearing, on August 17, 2022.

Based on this evidence, I accept that the Landlord served the Notice of their Application, and evidence, to the Tenant in a manner complying with s. 89 of the *Act*. The hearing thus proceeded in the Tenant's absence.

Preliminary Issue – Tenant non-attendance to scheduled hearing

The Tenant did not attend the hearing, although I left the teleconference hearing connection open until 11:15am to enable them to call in to this teleconference hearing scheduled for 11:00am. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Hearing generated when they applied. I also confirmed throughout the duration of the call that the Tenant was not in attendance.

The *Residential Tenancy Branch Rules of Procedure* Rule 7.3 of the Rules of Procedure provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply. On this basis, I dismiss all grounds on the Tenant's Application. The Tenant does not have leave to reapply on this issue.

Issue to be Decided

Is the Landlord entitled to an Order of Possession pursuant to s. 55 of the *Act*?

Is the Landlord entitled to recover the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord provided a copy of the tenancy agreement between the parties. This shows the tenancy started on February 1, 2015 for \$600 per month. The Landlord provided that everything was "very basic about this agreement."

The Landlord provided a copy of the One-Month Notice signed by the Landlord on April 27, 2022. This gave the reason for its issuance as:

- The Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord
- The Tenant seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

They served this document by providing it to the Tenant directly in person on that same date, at 18:15pm. A witness observed this transaction and signed a copy of a "Proof of Service" to provide evidence thereof.

The One-Month Notice initially gave the end-of-tenancy date as May 31, 2022. In the hearing the Landlord testified that the Tenant remained in the rental unit as of the date of the hearing.

In their testimony, the Landlord described their evidence on why they issued the One-Month Notice to the Tenant. This was a number of confrontations with others in the rental unit building. The Landlord provided this took place during the time of public health measures. This resulted in the Tenant posting signs with retaliatory statements against others that they perceived had slighted them or jeopardized their own health. The Landlord provided that this came to extreme measures. In their evidence, the Landlord provided a number of letters from other building residents about the Tenant.

The Landlord also provided their own communication to the Tenant that sets out the issue from their perspective and asks for rectification.

Analysis

From the evidence and testimony of the Landlord, I am satisfied that a tenancy agreement was in place. They provided the specific terms of the rent payments. The Tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

The Landlord issued a One-Month Notice on April 27, 2022, serving that to the Tenant on that same day. This was for repeated instances of confrontations with other building residents, at least 2 instances required police attendance.

Above, I dismissed the Tenant's Application for Dispute Resolution because they did not notify the Landlord of their Application, and they did not attend the hearing.

The *Act* s. 55(1) states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application is dismissed or the landlord's notice is upheld, the landlord must be granted an order of possession if the notice complies with all the requirements of s. 52 of the *Act*.

On my review, the document complies with the requirements of s. 52, and with this verification, I find the Landlord is entitled to an Order of Possession.

The Landlord is successful on their Application; therefore, I grant a monetary order for recovery of the Application filing fee.

Conclusion

Under s. 55(1) and s. 55(3) of the *Act*, I grant an Order of Possession to the Landlord, effective two days after service of this Order on the Tenant. Should the Tenant fail to comply with this Order, the Landlord may file this Order with the Supreme Court of British Columbia where it will be enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 29, 2022

Residential Tenancy Branch