



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC, OPC, FFL

Introduction

This hearing was convened in response to cross applications.

The Landlords filed an Application for Dispute Resolution in which they applied for an Order of Possession and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a One Month Notice to End Tenancy for Cause.

The Tenant stated that on April 26, 2022 the Tenant's Dispute Resolution Package was sent to the Landlords, via registered mail. The Landlords acknowledge receiving these documents.

The female Landlord stated that on May 12, 2022 the Landlord's Dispute Resolution Package was sent to the Tenant, via registered mail. The Tenant acknowledges receiving these documents.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Preliminary Matter

At the hearing the Tenant stated that he incorrectly recorded the name of the male Landlord. With the consent of both parties, the Tenant's Application for Dispute Resolution has been amended to reflect the correct name of the male Landlord.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside or should the Landlords be granted an Order of Possession?

Background and Evidence

The Landlords and the Tenant agree that the tenancy began on April 01, 2020; rent is due by the first day of each month; rent has been paid for August of 2022; and the Tenant is still living in the rental unit.

The female Landlord stated that on April 05, 2022 the One Month Notice to End Tenancy for Cause was placed under the Tenant's door. The Tenant stated that on April 05, 2022 the Landlord opened his front door and placed it on the floor of the rental unit.

The Landlords and the Tenant agree that the One Month Notice to End Tenancy for Cause declared that the rental unit must be vacated by April 30, 2022. They agree that the One Month Notice to End Tenancy for Cause declares that the tenancy is ending because the tenant has been repeatedly late paying the rent.

The Landlords and the Tenant agree that rent was not paid when it was due in December and September of 2021.

The female Landlord stated that rent was not paid for October of 2021 until October 04, 2021. The Tenant stated he is not certain, but rent may have been late by one day.

The female Landlord stated that rent was not paid for August of 2021 until August 04, 2021. The Tenant stated he is not certain, but it was likely paid on August 04, 2021.

The Tenant stated that he did his best to pay rent on time but sometimes did not get his paycheque on time.

Analysis

On the basis of the undisputed evidence, I find that the Landlords and the Tenant have a tenancy agreement which requires rent to be paid by the first day of each month.

Section 47(1)(b) of the *Residential Tenancy Act (Act)* permits a landlord to end a tenancy by giving notice to end the tenancy if the tenant is repeatedly late paying rent. Residential Tenancy Branch Policy Guideline #38, with which I concur, suggests that three late payments are the minimum number sufficient to justify a notice to end tenancy pursuant to section 47(1)(b) of the *Act*.

On the basis of the undisputed evidence, I find that the Tenant received the One Month Notice to End Tenancy for Cause, dated April 05, 2022, on April 05, 2022. I find that this One Month Notice to End Tenancy for Cause was proper notice of the Landlords' intent to end the tenancy pursuant to section 47(1)(b) of the *Act*.

On the basis of the undisputed evidence, I find that the Tenant paid his rent late on at least 4 occasions in 2021. I therefore find that the Landlord has grounds to end this tenancy pursuant to section 47(1)(b) of the *Act*. As such, I grant the Landlord's application for an Order of Possession and I dismiss the Tenant's application to set aside the One Month Notice to End Tenancy for Cause.

I find that the Landlords' Application for Dispute Resolution has merit and that they are entitled to recover the fee for filing their Application for Dispute Resolution.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, without leave to reapply.

I grant the Landlords an Order of Possession that is effective **at 1:00 p.m. on August 31, 2022**. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlords have established a monetary claim, in the amount of \$100.00, in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Landlords a monetary Order for \$100.00. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and 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 Section 9.1(1) of the *Act*.

Dated: August 16, 2022

Residential Tenancy Branch