



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDC, MND, FF

Introduction

This hearing was convened as a result of the landlord's application and amended application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The landlord applied for:

- an order of possession for the rental unit pursuant to a One Month Notice to End Tenancy for Cause (Notice) served on the tenant,
- compensation for a monetary loss or other money owed,
- compensation for alleged damage to the rental unit by the tenant, and
- recovery of the cost of the filing fee.

The landlord and agent attended the telephone conference call hearing; the tenant did not attend the hearing.

The landlord and agent provided their affirmed testimony. The landlord and agent testified that they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by personal service on April 27, 2022. The tenant has submitted responsive evidence.

Based upon the submissions of the landlord and agent and the tenant's responsive evidence I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the

submissions are reproduced here. I refer only to the relevant evidence necessary for this Decision.

Preliminary and Procedural Matters-

#1 -

Residential Tenancy Branch (RTB) Rules of Procedure 2.3 states that claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

In this application, the landlord listed multiple claims. I find the most urgent matter to consider is the landlord's request for enforcement of the Notice and further find that all the additional claims on the application are not sufficiently related to the primary issue. I will, therefore, only consider the landlord's request to enforce the Notice and recovery of the cost of the filing fee at this proceeding. I **dismiss** the balance of the landlord's application, **with leave to re-apply**.

#2 –

I also find it important to note that the documentary evidence submitted by the tenant or on the tenant's behalf was a request for an adjournment of the hearing. One document was signed by an employee of a health clinic, which stated that the tenant was hospitalized on July 5, 2022, and expected to be released on July 27, 2022. The letter was dated July 19, 2022 and requested a 1-2 week postponement. Another document was an email from the same employee, requesting a postponement of the hearing, which also stated the tenant was expected to be discharged "next week". However, the email was not dated. The email was uploaded into the RTB portal on July 19, 2022.

As no one for the tenant or the tenant appeared at the hearing, and the requests made suggested the tenant would be released on July 27, 2022, I find it was appropriate to continue the hearing on August 15, 2022, in the tenant's absence.

#3 –

The landlord failed to provide a copy of the 1 Month Notice into evidence. The landlord and agent believed that they had filed a copy. I allowed the landlord to provide affirmed testimony as to the specific details of the 1 Month Notice and further required them to

upload a copy of the Notice by the end of the day of the hearing. The landlord was informed that if they did not meet the deadline, I would dismiss their application. The landlord provided a copy of the Notice the same day of the hearing, which matched their testimony.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit as a result of the Notice and recovery of the cost of the filing fee?

Background and Evidence

The landlord submitted evidence that this tenancy began on September 25, 2019 for a monthly rent of \$1,700 and a security deposit being paid by the tenant in the amount of \$850.

The agent submitted that they served the tenant the Notice by personal service on March 31, 2022. The Notice was dated March 31, 2022, and it listed an effective end of tenancy date of April 30, 2022.

The causes listed on the 1 Month Notice are:

1. Tenant is repeatedly late paying rent.
2. Tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
3. Tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.
4. Tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk.
5. Tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit.
6. Tenant has not done required repairs of damage to the rental unit or residential property.

The agent submitted that the tenant has had multiple instances of paying the rent late and has caused significant damage to the rental unit. The landlord submitted

photographs of the rental unit, showing a broken window and broken blinds in the rental unit, holes in interior doors, a broken thermostat, and rotten food on the stove.

Analysis

I have reviewed all the evidence and accept that the tenant was served with the Notice as declared by the landlord on March 31, 2022, which listed a move-out date of April 30, 2022.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such an application within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case, April 30, 2022.

There is no evidence before me that the tenant made an application for dispute resolution to contest the Notice.

As such, I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, or April 30, 2022.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act. I also find the Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

I have reviewed the landlord's undisputed evidence and find they had sufficient cause to end the tenancy based upon the damaged condition of the rental unit.

I therefore **order** the tenancy ended on April 30, 2022.

I find the landlord is entitled to and I **grant an order of possession of the rental unit (Order)**, pursuant to section 55(2)(b) of the Act, effective two days after service of the order upon the tenant.

The tenant must be served the Order to be effective. If the tenant fails to voluntarily comply by vacating the rental unit immediately, the Order may be filed in the Supreme

Court of British Columbia for enforcement as an order of that Court if it becomes necessary.

The tenant is cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenant.

I also find the landlord is entitled to recovery of the filing fee of \$100. I grant the landlord a separate monetary order for \$100. I authorize the landlord to deduct \$100 from the tenant's security deposit to satisfy this monetary award if they choose. I inform the landlord that the monetary order is cancelled and of no force or effect if they deduct \$100 from the tenant's security deposit.

Conclusion

The tenancy has been ordered ended on April 30, 2022.

The landlord's application for an order of possession of the rental unit is granted.

The landlord has been issued an order of possession of the rental unit, effective two days after service of the order upon the tenant.

The landlord is granted a monetary order for \$100 for recovery of their filing fee.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: August 17, 2022

Residential Tenancy Branch