



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction and Preliminary Matters

On May 19, 2022, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking an Order to comply pursuant to Section 62 of the *Act*.

On June 2, 2022, this hearing was scheduled to commence via teleconference at 11:00 AM on September 27, 2022.

The Landlord attended the hearing; however, the Tenant did not make an appearance at any point during the 15-minute teleconference. At the outset of the hearing, I informed the Landlord that recording of the hearing was prohibited and she was reminded to refrain from doing so. As well, she provided a solemn affirmation.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:15 AM. Only the Landlord dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I confirmed during the hearing that the Applicant did not dial in, and I also confirmed from the teleconference system that the only party who had called into this teleconference was the Landlord.

As the Tenant did not attend the hearing, his Application has been dismissed without leave to reapply.

The Landlord advised that her evidence was served to the Tenant by registered mail on September 12, 2022 (the registered mail tracking number is noted on the first page of this Decision). Based on this undisputed testimony, as the Landlord's evidence was served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to an Order to comply?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on January 1, 2015, that rent was currently established at \$880.00 per month, and that it was due on the first day of each

month. A security deposit of \$350.00 and a pet damage deposit of \$150.00 were also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

She testified that the Notice was served to the Tenant by being posted to the Tenant's door on May 17, 2022, and she referred to the proof of service form submitted to corroborate this service. The reasons the Landlord served the Notice are because the "Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk" and because the "Tenant has not done required repairs of damage to the unit/site/property/park." The effective end date of the tenancy was noted as June 30, 2022.

She advised that there was a leak in the rental unit and an inspection was conducted on April 4, 2022. During this inspection, it was determined that the Tenant had not been maintaining an adequate level of cleanliness in the rental unit. A caution notice was then served to the Tenant on April 6, 2022, requiring that he remedy this matter and bring the rental unit up to a habitable condition by April 16, 2022. He was required to clean, repair damage, and replace smoke detectors that were removed. An inspection was conducted on May 16, 2022, and the Tenant did not rectify the requested items. As a result, the Notice was served. She referenced the documentary evidence submitted to support her submissions.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord's One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

I find it important to note that Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

Landlord's notice: cause

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(d) the tenant or a person permitted on the residential property by the tenant has

(iii) put the landlord's property at significant risk;

(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [obligations to repair and maintain], within a reasonable time;

The undisputed evidence before me is that the Tenant was warned in writing to correct issues in the rental unit to ensure that the unit remained in a safe, habitable, and sanitary condition. However, the Tenant did not comply with this warning. When reviewing the undisputed evidence before me, I accept the Landlord's evidence demonstrating that the Tenant breached the *Act*. As such, I am satisfied, by the Tenant's actions, that the grounds for ending the tenancy have been justified.

As the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, and as the Tenant's Application was dismissed, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of June 30, 2022, on the One Month Notice to End Tenancy for Cause, is changed to the nearest date that complies with the law. Since that effective date has passed, I grant the Order of Possession effective on **September 30, 2022 at 1:00 PM** after service of this Order on the Tenant.

Conclusion

The Tenant's Application is dismissed without leave to reapply. The Landlord is provided with a formal copy of an Order of Possession effective on **September 30, 2022 at 1:00 PM** after service on the Tenant. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of 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: September 27, 2022

Residential Tenancy Branch