



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPC**

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on June 7, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice for Cause dated April 22, 2022 (the "One Month Notice").

The hearing was scheduled for 11:00AM on October 20, 2022 as a teleconference hearing. J.D. appeared on behalf of the Landlord and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 15 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that J.D. and I were the only persons who had called into this teleconference.

J.D. testified the Application and documentary evidence package was served to the Tenants in person on June 17, 2022. The Landlord submitted a signed proof of service in support. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Application and documentary evidence on June 17, 2022.

J.D. was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession based on a One Month Notice for Cause, pursuant to Section 47 and 55 of the *Act*?

Background and Evidence

J.D. testified to the following: the tenancy began on April 21, 2021. Currently rent in the amount of \$1,260.00 is due to the Landlord each month. The Tenants paid a security deposit in the amount of \$630.00 which the Landlord continues to hold. The Tenants continue to occupy the rental unit.

J.D. stated that the Landlord has received several complaints for other occupants at the rental property regarding their quiet enjoyment being impacted by loud music and noise emitting from the Tenants' rental unit. J.D. stated that the Tenants have been cautioned both verbally and in writing on several occasions, however, the Tenants continue to disregard the Landlord's warnings and are causing noise disturbances on a regular basis. The Landlord provided a copy of the complaints and subsequent caution notices sent to the Tenants in support.

J.D. stated that the Landlord subsequently served the Tenants with a One Month Notice for Cause dated April 22, 2022 with an effective vacancy date of May 31, 2022 by posting it to the Tenants' door on April 22, 2022. The Landlord provided a witnessed proof of service in support. The Landlord's reason for ending the tenancy on the One Month Notice is;

"Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so"

J.D. stated that the Tenants continue to occupy the rental unit; therefore, the Landlord is seeking an order of possession in relation to the One Month Notice. No one attended the hearing for the Tenants to respond to the Landlord's Application.

Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause.

The Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated on April 22, 2022 with an effective vacancy date of May 31, 2022 by posting it to the Tenants' door on April 22, 2022. Based on the oral and written submissions of the Landlord and their Agent, and in accordance with sections 88 and 90 of the Act, I find that the Tenants are deemed to have been served with the One Month Notice three days later, on April 25, 2022.

Section 47(4) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 10 days after the date the Tenant receives the Notice. Section 47(5) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

As I have found that the One Month Notice was deemed served on the Tenants on April 25, 2022 and that there is no evidence before me that the Tenants applied for Dispute Resolution within 10 days or applied for more time to cancel the Notice, I find that the Tenants are conclusively presumed to have accepted the end of her tenancy on May 31, 2022.

I further find that the Landlord has demonstrated that they have sufficient cause to end the tenancy. I find that the Landlord is entitled to a two-day Order of Possession which must be served on the Tenants. If the Tenants do not vacate the rental unit within the two days required, the Landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The Tenants are conclusively presumed to have accepted the end of the tenancy for cause. Pursuant to Section 55 of the Act, I grant the Landlord an Order of Possession to be effective two days after notice is served on the Tenants. Should the Tenants 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: October 20, 2022

Residential Tenancy Branch