



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on June 1, 2022 seeking an order of possession for the rental unit. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on October 7, 2022. In the conference call hearing, I explained the process and provided the attending party – the Landlord – the opportunity to ask questions.

Preliminary Matter – notification of the hearing to the Tenant

The Landlord attended the hearing, and they were provided the opportunity to present oral testimony and make submissions during the hearing. The Tenant did not attend the telephone conference call hearing.

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

The Landlord set out how they served the Notice of Dispute Resolution Proceeding to the Tenant via registered mail on June 15, 2022. They provided a copy of that post office receipt and registered mail label showing the tracking number. They stated this was delivered to the Tenant days later based on their check of the tracking number. This included evidence they prepared initially at the time they filed their Application. Additionally, they sent more evidence to the Tenant via registered mail on September 16, 2022, showing this with receipt and label evidence.

Based on the submissions and evidence of the Landlord, I accept that they served the Notice of Dispute Resolution Proceeding document to the Tenant, along with their prepared evidence.

I find the Landlord complied with s. 89(1)(c) of the *Act*. The hearing thus proceeded in the Tenant's absence.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for cause as per s. 55 of the *Act*?

Background and Evidence

The Landlord spoke to the relevant terms of the tenancy agreement in the hearing. They provided a "Behavioural Agreement" from 2012. A letter from the Landlord to the Tenant dated March 13, 2022 shows the rent adjustment from \$348 to \$375. They also provided a "Residential Tenancy Agreement – Rent Geared to Income" document, signed by the Landlord on April 14, 2013 and the Tenant on April 10, 2013.

The Landlord submitted as evidence a copy of the One Month Notice to End Tenancy for Cause (the "One Month Notice") dated April 25, 2022. The reasons for the issuance of the document are: the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord; caused extraordinary damage; had not done required repairs, and breached a material term of the tenancy agreement. Page 2 of the document gives a description from the Landlord's perspective. As of the date of the hearing, the Tenant continued to reside in the rental unit.

The One Month Notice provides that the Tenant had ten days from the date of service to apply for Dispute Resolution or the tenancy would end on the stated effective vacant date of May 31, 2022. The Landlord served the document by leaving a copy in the mailbox or mail slot at the rental unit address. A 'Proof of Service' document was in the Landlord's evidence attesting to this service on April 25, 2022.

In the hearing, the Landlord described seeing the Tenant in the rental unit property on the day of the hearing. They were aware the Tenant had not moved out from the rental unit as required by the One-Month Notice.

In the hearing, the Landlord provided that they had no knowledge of the Tenant contesting the issuance of the One Month Notice formally.

Analysis

The *Act* s. 47 allows a Landlord to end a tenancy by giving notice to end the tenancy if, among other things, one or more of the listed grounds applies.

After that, s. 47(4) allows a Tenant who receives a notice to end tenancy 10 days to submit an Application for Dispute Resolution to cancel the notice. Then, s. 47(5) stipulates that if a Tenant fails to apply within 10 days, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and they must vacate the rental unit.

I have reviewed the Notice, and I find it complies with the form and content requirements of s. 52 of the *Act*. I find that the Tenant did not dispute the Notice within ten days, pursuant to s. 47(4). I find that the Tenant is conclusively presumed to have accepted that the tenancy has ended in accordance with s. 47(5).

I find the Landlord had the authority to issue the Notice under s. 47 of the *Act*. I grant the Landlord's request for an Order of Possession under s. 55 of the *Act*.

Conclusion

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 in 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: October 7, 2022

Residential Tenancy Branch