



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the Landlord's application under the *Residential Tenancy Act* (the "Act") for an Order of Possession under a One Month Notice to End Tenancy for Cause dated February 9, 2022 (the "One Month Notice") pursuant to sections 47 and 55.

The Landlord's agent CG attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 11:13 am in order to enable the Tenant to call into the hearing scheduled to start at 11:00 am. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that CG and I were the only ones who had called into the hearing.

Preliminary Matter – Service of Dispute Resolution Documents

CG confirmed the Tenant was served with the notice of dispute resolution proceeding package and the Landlord's documentary and digital evidence (collectively, the "NDRP Package") by registered mail on August 6, 2022. The Landlord submitted a registered mail receipt with a tracking number in support. That tracking number is referenced in the cover page of this decision. Tracking records for the NDRP Package show that it was delivered on August 9, 2022. Based on the foregoing, I find the Tenant was served with the NDRP Package on August 9, 2022 in accordance with sections 88(c) and 89(1)(c) of the Act.

Having found the Tenant to be duly served with notice of this hearing, I directed that this hearing proceed in the absence of the Tenant.

Issue to be Decided

Is the Landlord entitled to an Order of Possession under the One Month Notice?

Background and Evidence

This tenancy commenced on October 1, 2020 and is month-to-month. Rent is \$375.00 per month due on the first day of each month. The Tenant paid a security deposit of \$187.50.

The Landlord submitted a copy of the One Month Notice into evidence. It is dated February 9, 2022 and has an effective date of March 31, 2022. The One Month Notice states that the Tenant or a person permitted on the property by the Tenant has (1) significantly interfered with or unreasonably disturbed another occupant or the Landlord; (2) seriously jeopardized the health or safety or lawful right of another occupant or the Landlord; and (3) put the Landlord's property at significant risk. The details of cause stated on the One Month Notice are as follows:

On February 7th at 20:34PM you were seen on camera assualting (sic) another resident with a weapon (A metal carpenter's combination square) This assault took place for approximately 5 mins. On camera it appears the tenant trys (sic) to run in the opposite direction and you are seen chasing after him down the hallway.

The Landlord submitted a video recording of the incident captured by a security camera and a critical incident report prepared by the Landlord's staff.

CG confirmed that a copy of the One Month Notice was posted to the Tenant's door on February 9, 2022. The Landlord submitted a signed and witnessed Proof of Service document in support.

CG confirmed that the Tenant is still residing in the rental unit.

Analysis

Section 47 of the Act permits a landlord to end a tenancy for cause by issuing a one month notice to the tenant. Section 47(1) provides a list of grounds which may constitute cause under this section.

47(3) of the Act requires that a notice to end tenancy for cause comply with section 52 of the Act, which states:

Form and content of notice to end tenancy

- 52 In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
 - (b) give the address of the rental unit,
 - (c) state the effective date of the notice,
 - (d) except for a notice under section 45(1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
 - (e) when given by a landlord, be in the approved form.

In this case, I have reviewed the One Month Notice and find that it complies with the requirements of section 52 in form and content. I find that the grounds for ending the tenancy stated in the One Month Notice correspond to those described in section 47(1)(d) of the Act.

I accept the Landlord's evidence that a copy of the One Month Notice was posted to the Tenant's door on February 9, 2022, in accordance with section 88(g) of the Act. I find that pursuant to section 90(c) of the Act, the Tenant is deemed to have received the One Month Notice on February 12, 2022.

Section 47(4) of the Act permits a tenant to dispute a one month notice to end tenancy for cause within 10 days after receiving such notice. Therefore, the Tenant had until February 22, 2022 to dispute the One Month Notice. In this case, the Tenant did not apply to dispute the One Month Notice by February 22, 2022 or at all.

Section 47(5) of the Act states that if a tenant who has received a notice under section 47 does not make an application for dispute resolution in accordance with section 47(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.

Furthermore, sections 55(2)(b) and 55(4) of the Act state as follows:

Order of possession for the landlord

55 [...]

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

[...]

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired; [...]

[...]

(4) In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, I have found the One Month Notice was deemed served on February 12, 2022, the time for disputing the One Month Notice expired on February 22, 2022, and the Tenant did not make an application for dispute resolution. Accordingly, I conclude that the Landlord is entitled to an Order of Possession pursuant to sections 55(2)(b) and 55(4)(a) of the Act.

As the effective date stated on the One Month Notice, or March 31, 2022, has already passed, I grant an Order of Possession to the Landlord effective two (2) days after service of the Order upon the Tenant.

Conclusion

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **two (2) days** after service upon the Tenant. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: October 04, 2022

Residential Tenancy Branch