



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPN, FFL

Introduction

This matter was convened to hear an Application for Dispute Resolution made by the Landlord on July 19, 2022. The hearing was first scheduled on September 2, 2022. However, during that hearing, the Tenant requested and was granted an adjournment. The hearing was rescheduled on October 21, 2022, at 9:30 a.m.

The Landlord seeks the following relief pursuant to the Residential Tenancy Act (the Act):

- an order of possession based on a One Month Notice to End Tenancy for Cause dated June 15, 2022 (the One Month Notice);
- an order of possession based on a Tenant's notice to end tenancy; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing and was accompanied by SG, her son. Both the Landlord and SG provided a solemn affirmation at the beginning of the hearing. The Tenant did not attend the hearing.

Notices of Dispute Resolution Proceeding documents were provided to the parties by the Residential Tenancy Branch following the hearing on September 2, 2022. These documents were sent to email addresses confirmed by the parties during the hearing on September 2, 2022. In addition, documents submitted to the Residential Tenancy Branch Dispute Management System by the Tenant on October 17, 2022 indicate an awareness of the rescheduled hearing on October 21, 2022. I find I am satisfied that both the Landlord and the Tenant received notice of the rescheduled hearing.

The Landlord and SG were given the 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.

Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlord, SG testified that the Tenant resided in the rental unit with his mother. The Tenant continued to reside in the rental unit after his mother was moved to a long-term care facility. SG confirmed that rent of \$710.00 per month is paid by the Public Guardian & Trustee of British Columbia. SG testified the Landlord does not hold a security deposit or a pet damage deposit.

SG testified that the One Month Notice was served on the Tenant by attaching a copy to the Tenant's door on June 15, 2022. A copy of the One Month Notice was submitted into evidence. The Landlord also submitted a photograph depicting a copy of the One Month Notice taped to the Tenant's door.

SG also testified the One Month Notice was also served on the Tenant by registered mail on June 15, 2022. Copies of Canada Post registered mail receipts confirming the date and time of purchase and including the tracking number were submitted in support.

In the Details of Cause section of the One Month Notice, the Landlord indicated that she had to run away when the Tenant tried to physically assault her on June 2, 2022. The Landlord also stated she is a 75-year-old widow who is scared and feels unsafe because the Tenant shouts at her.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the Act permits a landlord to take steps to end a tenancy by issuing a notice to end tenancy for cause in the approved form. The notice must comply with the form and content requirements of section 52 of the Act. A tenant has 10 days after receipt of a notice to end tenancy for cause to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause within 10 days after receipt results in the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice and must vacate the rental unit.

In this case, I find that the One Month Notice was served on the Tenant by attaching a copy to the Tenant's door on June 15, 2022. Pursuant to sections 88 and 90 of the Act, documents served by attaching a copy to the door are deemed to be received three days later. Therefore, I find the One Month Notice is deemed to have been received by the Tenant on June 18, 2022. I also find the One Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 47(4) of the Act, the Tenant had 10 days after receipt of the One Month Notice to dispute it by filing an application for dispute resolution. I find there is no evidence before me to conclude the Tenant disputed the One Month Notice by filing an application for dispute resolution by June 28, 2022, or at all. Therefore, pursuant to section 47(5) of the Act, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the One Month Notice and must vacate the rental unit.

Considering the above, I find the Landlord is entitled to an order of possession, which will be effective two days after it is served on the Tenant. As the Landlord has been granted an order of possession based on the undisputed One Month Notice, it has not been necessary for me to consider the Landlord's request for an order of possession based on the Tenant's notice to end the tenancy. This aspect of the Landlord's application is dismissed.

Having been successful, I also find the Landlord is also entitled to recover the \$100.00 filing fee paid to make the application. Therefore, I grant the Landlord a monetary order for \$100.00.

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order of \$100.00 in recovery of the filing fee. The monetary order must be served on the Tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 21, 2022

Residential Tenancy Branch