



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit pursuant to a One Month Notice to End Tenancy for Cause (Notice) served to the tenant and recovery of the cost of the filing fee.

The landlord's agent, the resident manager (landlord), attended the telephone conference call hearing; the tenant did not attend or file written evidence for the hearing.

The landlord provided their affirmed testimony. The landlord testified that they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on October 6, 2022. The landlord submitted evidence showing the tracking number for the registered mail package.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

The landlord/applicant was an individual. However, the landlord/owner is a numbered corporation, who was listed on the 1 Month Notice as the landlord. I therefore find it necessary and appropriate to add the numbered corporation as an additional landlord. The agent attending confirmed the name of the landlord.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit as a result of the Notice and recovery of the cost of the filing fee?

Background and Evidence

This tenancy began on July 1, 2012, for a monthly rent of \$950 and a security deposit and pet damage deposit of \$467.50 each. The tenancy began with another landlord named on the written tenancy agreement. The landlord submitted that the numbered corporation purchased the residential property in 2018 and that the current monthly rent is \$1,123.60.

The landlord submitted evidence that they served the tenant the Notice by attaching it to the tenant's door on September 5, 2022. The Notice was dated September 5, 2022 and listed an effective end of tenancy date of October 8, 2022. The landlord filed a copy of the Notice into evidence.

The cause listed on the Notice stated that the tenant is repeatedly late paying rent.

The landlord submitted documentary evidence that the tenant has paid the monthly rent late 8 of the last 9 months, and that due to the multiple late payments, they issued the Notice. The documentary evidence included a tenant ledger sheet showing the dates of payments, which included 8 late payments since January 2022, a 10 Day Notice and warning letters concerning late payments.

The landlord requested to deduct \$100 from the tenant's security deposit to compensate the landlord for the filing fee.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

I have reviewed all the relevant evidence and I find that the tenant was served with the Notice as declared by the landlord on September 5, 2022, by attaching it to the tenant's door, which listed a move-out date of October 8, 2022. I find the tenant was deemed to have received the Notice on September 8, 2022, three days after it was attached to the tenant's door.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act. Therefore, I find that the Notice effective date is corrected to October 31, 2022, which is one clear calendar month before the next rent payment is due and is the day before the day of the month that rent is payable. The landlord acknowledged their understanding of the corrected effective date.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such an application within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the corrected effective date of the Notice, in this case, October 31, 2022.

I have no evidence before me that the tenant filed to make an application for dispute resolution to contest the Notice.

As such, I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, or October 31, 2022.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act. I also find the Notice was completed in the approved form and the content meets the statutory requirements under section 52 the Act.

I have reviewed the landlord's undisputed evidence and find they had sufficient cause to end the tenancy based upon the repeated late rent payments.

I therefore **order** the tenancy ends on October 31, 2022.

I find the landlord is entitled to and I **grant an order of possession of the rental unit (Order)**, pursuant to section 55(2)(b) of the Act, effective **at 1:00 pm on October 31, 2022.**

Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenant.

As the landlord was successful with their application, I grant the landlord recovery of the filing fee of \$100. I direct and authorize the landlord to deduct the amount of \$100 from the tenant's security deposit in satisfaction of their claim for recovery of the filing fee.

Conclusion

The tenancy has been ordered ended on October 31, 2022.

The landlord's application for an order of possession of the rental unit is granted.

The landlord has been issued an order of possession of the rental unit, effective at 1:00 pm on October 31, 2022.

The landlord has been granted recovery of the filing fee of \$100.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: October 28, 2022

Residential Tenancy Branch