



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on October 31, 2022. 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 to End Tenancy for Cause (the Notice); and,
- to recover the filing fee from the tenant for the cost of this application.

The Landlord attended the hearing and provided affirmed testimony. However, the Tenant did not attend the hearing. The Landlord provided registered mail tracking information showing she mailed (to the rental unit) the Notice of Dispute Resolution Proceeding and evidence to the Tenant on June 29, 2022. Pursuant to section 88 and 90 of the Act, the Tenant is deemed served with this package 5 days after it was mailed.

The Landlord was given a full opportunity to be heard, to present evidence and to make submissions. 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 to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

The Landlord stated that she served the Tenant with the Notice by sending a copy to Tenant by registered mail on April 22, 2022. Proof of mailing was provided.

The Notice indicates several reasons for ending the tenancy, as follows:

Tenant or a person permitted on the property by the Tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the Landlord.*

Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

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

The Landlord explained that there is a guest of the Tenant who continually significantly disturbs others in the building by making excessive noise, using drugs, and urinating on the property. The Landlord expressed they have warned the Tenant numerous times, with no success.

Analysis

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

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [form and content of notice to end tenancy]. Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, the Landlord issued the Notice for several reasons. Based on the Landlord's testimony and the mail tracking information, I am satisfied that the Landlord served the Tenant with the Notice, by sending it via registered mail on April 22, 2022. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are

deemed to be received 5 days later. I find the Tenant received the Notice on April 27, 2022.

The Tenant had 10 days, until May 7, 2022, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice. I accept the Landlord's undisputed testimony that the Tenant's guest has continually and significantly disturbed others in the building.

I find the Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the landlord was substantially successful in this hearing, I order the tenant to repay the \$100. Pursuant to sections 72 of the *Act*, I authorize the landlord to retain \$100.00 from the security deposit in order to compensate for the cost of filing this application.

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 1, 2022

Residential Tenancy Branch