



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RE/MAX OF NANAIMO PROPERTY
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66, and
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

While the landlord's agent, AMB ("landlord") attended the hearing by way of conference call, the tenant did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenant's application and evidence. The landlord submitted proof of service to support that they had served the tenant with their evidentiary materials by way of registered mail on November 8, 2022. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the landlord's evidence on November 13, 2022, 5 days after mailing.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. The landlord confirmed that they understood.

The landlord submitted proof of service to support that the tenant was sent the 1 Month Notice dated June 23, 2022 by way of registered mail on June 24, 2022. In accordance

with sections 88 and 90 of the Act, I find the tenant deemed served with the 1 Month Notice on June 29, 2022, 5 days after mailing.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the tenant failed to attend the hearing, I order the tenant's entire application dismissed without leave to reapply.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on April 1, 2015, with monthly rent currently set at \$701.35, payable on the first of the month. The landlord had collected a security deposit in the amount of \$325.00, which the landlord still holds.

The tenant was served with a 1 Month Notice to End Tenancy for Cause dated June 23, 2022 for the following reason:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord submitted in evidence a detailed summary of why they had served the tenant with the 1 Month Notice and are requesting an Order of Possession. The landlord submits that they have received numerous and ongoing complaints against the tenant and their guests describing repeated disturbances to the neighbouring residents. The landlord submitted copies of multiple complaint letters and bylaw infraction notices that have been sent to the tenant. The landlord testified that even after the tenant was

served with the 1 Month Notice, the tenant continues to engage in behaviour that significantly disturbs others.

Analysis

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice 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, and (e) when given by a landlord, be in the approved form.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, July 31, 2022. As the tenant has not moved out, I find that the landlord is entitled to an Order of Possession.

Conclusion

I dismiss the tenant's application without leave to reapply. I find that the landlord's 1 Month Notice is valid and effective as of July 31, 2022.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: December 16, 2022