



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AQUILINI PROPERTIES AQUILINI PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and authorization to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*.

While the landlord's agent, AM ("landlord"), attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

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. Both parties confirmed that they understood.

The landlord testified that they never received a copy of the tenant's application or evidence, but confirmed that they still wished to proceed. The landlord testified that the tenant was served with their evidence package by way of registered mail on January 10, 2023. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the package on January 15, 2023, 5 days after mailing.

The landlord testified that they had served the tenant with a 1 Month Notice on December 19, 2022 by way of posting the 1 Month Notice on the tenant's door. In

accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the 1 Month Notice on December 21, 2022, 3 days after posting.

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

Accordingly, **in the absence of any submissions in this hearing from the tenant in this hearing, I order the tenant's entire application dismissed without leave to reapply.**

Issues to be Decided

Are the landlords entitled to an Order of Possession for cause?

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 the applications before me and my findings around it are set out below.

This month-to-month tenancy began on May 1, 2018, with monthly rent currently set at \$2,175.00, payable on the first of the month. The landlord holds a security deposit of \$1,000.00 for this tenancy.

On December 19, 2022, the landlord served the tenant with a the 1 Month Notice on the following grounds:

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

The landlord submitted copies of warning letters sent to the tenant. The tenant was sent a warning by email on June 28, 2022 informing the tenant that on June 28, 2022, the tenant had brought a dog into the building and up to their suite as captured by the security camara footage. Another email was sent on August 10, 2022 informing the tenant that a warning was sent on June 28, 2022, and that the tenant continued to breach the no pet policy on July 10, 2022 and August 6, 2022. The email notes that "this action directly violates material terms of your tenancy agreement", and that "this will be the final warning...any future occurrences will result in the landlord filing for a 30 day notice". The landlord attached a still of the footage showing the tenant and a dog.

On November 10, 2022, the tenant was sent one more final warning after the tenant was captured again on November 10, 2022 at 6:20 a.m. with a dog. The 1 Month Notice was subsequently served to the tenant on December 19, 2022 for a breach of a material term of the tenancy agreement.

The landlord further notes that the tenant confirmed the presence of a pet on the tenant's own written notice to move out, as the reason provided was that they wanted to relocate to a larger residence that allows pets. A copy of the notice was provided in evidence, as well as copies of the above referenced correspondence, the stills from the camera footage, a copy of the tenancy agreement, as well as the 1 Month Notice.

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.

A copy of the 1 Month Notice was submitted for this hearing, and 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 the landlord is entitled to an Order of Possession against the tenant for January 31, 2023, pursuant to section 55 of the *Act*.

The landlords will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit by January 31, 2023, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

I find that the landlord is entitled to an Order of Possession for the effective date of the 1 Month Notice, January 31, 2023.

I grant an Order of Possession to the landlord. Should the tenant 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: January 24, 2023

Residential Tenancy Branch