



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPC

Introduction

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

- an Order of Possession for Landlord's Use of Property, pursuant to section 55.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of the Tenant. The Landlord submitted documentary evidence that the Tenant was served notice of this application and this hearing by registered mail on November 3, 2022. Canada Post tracking information was submitted in the Landlord's evidence. Based on the submissions of the Landlord, I find the Tenant was deemed served notice of this proceeding on November 8, 2022, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the Tenant.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for Cause, pursuant to sections 47 and 55 of the *Act*?

Background and Evidence

The landlord gave the following testimony. The tenancy began on August 3, 2016 with the current monthly rent of \$375.00 due on the first day of the month. On September 20, 2022 the landlord posted on the tenants door a One Month Notice to End Tenancy for Cause with an effective move out date of October 31, 2022 for the following reason:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

The landlord issued the notice and filed this application for the following reasons as noted as part of their submission on their application.

“Deven has a habitual habit of storing personal belongings in the hallway outside of his unit. It has been explained to him both verbally and in writing that the storing of personal belongings, which obstruct the hallway and block the fire exit vestibule, is in breach of BC's fire safety code. Deven was given a letter from our fire inspector as well as 2 from me (landlord) requesting he remove the items and change the behavior. Unfortunately, these communications haven't seemed to have an impact.”

The Landlord testified that she has been trying to resolve this issue with the tenant since 2020 and has given him offers of help and assistance only to be denied and he has carried on with the same behaviour. The Landlord testified that the fire inspector has warned of the extreme danger if the matter is not corrected. The Landlord testified that the tenant would yell profanities at her when she attempted to assist him.

Analysis

When a landlord issues a notice to end tenancy, they bear the burden of providing sufficient evidence to support the issuance of the Notice. The Landlord needs only demonstrate that one of the reasons identified in the One Month Notice is valid in order to end a tenancy for cause. The Landlord gave clear, concise, and compelling testimony that was supported by documentation. I find that the tenants' actions of storing numerous personal items in the common hallway, in front of the fire escape and vestibule, have put the property at significant risk as noted by the fire inspector “lives would be in jeopardy”.

Based on the above, I find that the Landlord is entitled to an order of possession. Upon review of the One Month Notice, I find that it meets the form and content requirements of section 52 of the *Act*. Section 47(4) and section 47(5) state that if a Tenant who has received a One Month Notice does not make an application for dispute resolution within 10 days after the date the Tenant receives the notice, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. In this case, the Tenant did not dispute the One Month Notice within 10 days of receiving it. The Tenant had 10 days from the receipt of the One Month Notice to file with the RTB to dispute the One Month Notice. The effective date of the notice was October 31, 2022 and the tenant continues to reside in the unit.

The Landlord will be given a formal Order of Possession which must be served on the Tenant. If the Tenant does not vacate the rental unit, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord, which should be served on the Tenant. 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: February 16, 2023

Residential Tenancy Branch