



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Pender Lodge Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the “Act”) to cancel the One-Month Notice for Cause (the “One-Month Notice”), pursuant to section 47 of the Act.

PT (the “landlord”) attended the hearing which lasted approximately 15 minutes. The landlord was given full opportunity under oath to be heard, to present evidence, and to make submissions.

The landlord confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11.

DW (the “tenant”) did not attend the hearing or submit evidence. The hearing proceeded in the tenant’s absence pursuant to Rule of Procedure 7.3.

Issue(s) to be Decided

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

Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all of the details of their submissions and arguments are reproduced here. The relevant and important aspects of the Landlord’s claims and my findings are set out below.

The landlord provided affirmed testimony that the tenancy commenced sometime in 2017 or 2018. Monthly rent is \$510.00 payable on the first of each month. The Landlord collected a security deposit in the amount of \$247.50 from the tenant, which the landlord continues to hold in trust.

The landlord testified that he issued a One Month Notice and served it on the tenant by attaching a copy to the door of the unit on January 2, 2023. The landlord testified that he also hand-delivered a copy of the One Month Notice to the tenant the following week. The One-Month Notice indicates that the reason for ending the tenancy is that the tenant is repeatedly late paying rent.

The Landlord provided affirmed testimony that the tenant last paid rent on September 6th, 2022, and that no rent has been paid by the tenant for the months of October, November, December 2022 and January, February 2023.

The Landlord provided affirmed testimony that he served the tenant with Ten-Day Notices for unpaid rent. The following notices are included in the landlord's evidence.

1. Ten-Day Notice dated September 2, 2022, served in person.
2. Ten-Day Notice dated October 2nd, 2022, served in person.
3. Ten-Day Notice dated November 4th, 2022, served in person.
4. Ten-Day Notice dated December 14th, 2022, served by attaching to the door.
5. Ten-Day Notice dated February 6th, 2023, served in person.

The landlord testified that he has attempted to assist the tenant in finding alternative housing and has referred him to a social worker. The landlord testified that he is still willing to work with the tenant and that he would like the tenant to know that there are supports available to assist him.

The tenant provided no evidence in support of their application.

The landlord confirmed that he is seeking an immediate end to the tenancy by way of an order of possession based on the repeated late payments of rent.

Analysis

I accept the undisputed testimony of the landlord that he served the One Month Notice on the Tenant on January 2, 2023, by attaching it to the door of the rental unit.

Pursuant to section 90 of the Act a document served in accordance with section 89 of the Act is deemed to be received if given or served by attaching to a door, on the third day after it is attached. In this case, the tenant is deemed to have received the One Month Notice on January 5, 2023, in accordance with section 90(c) of the Act.

Pursuant to Rule of Procedure 6.6, the landlord has the onus of proof to establish, on a balance of probabilities, that the notice issued to end tenancy is valid. This means that the landlord must prove, more likely than not, that the facts stated on the notice to end tenancy are correct and sufficient cause to end the tenancy.

The landlord provided affirmed testimony the tenant has repeatedly not paid rent for the months of October, November, December 2022 and January and February 2023. I accept this undisputed testimony and find the tenant has been repeatedly late paying rent.

Section 47(1)(b) of the Act states a landlord may end a tenancy by giving notice to end the tenancy if the tenant is repeatedly late paying rent. Residential Tenancy Policy Guideline 38 Repeated Late Payment of Rent states that three late payments are the minimum number sufficient to justify a notice to end tenancy.

The One Month Notice is included in the evidence. I find the One Month Notice meets the form and content requirements of section 52 of the Act. Considering the above, I find that the landlord is entitled to an Order of Possession pursuant to section 55(1)(b) of the Act, which will be effective upon two days after service on the tenant.

Conclusion

The landlord is granted an Order of Possession which will be effective upon two days after service on the tenant. The Order of Possession may be filed in 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 22, 2023

Residential Tenancy Branch