



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HILDON HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. On September 20, 2022 the landlord applied for:

- an order of possession, having issued a One Month Notice to End Tenancy for Cause, dated July 6, 2022 (the One Month Notice); and
- the filing fee.

The hearing started promptly and was attended by the landlord's representatives ("the landlord"); the tenant did not attend. Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified that the Notice of Dispute Resolution Proceeding (NDRP) and evidence was served on the tenant by registered mail on October 4, 2022, and provided a tracking number as noted on the cover page of the decision. Based on the landlord's undisputed testimony, I find the NDRP and evidence served on the tenant on October 4, 2022 in accordance with section 89 of the Act, and deem them received by the tenant on October 9, 2022, in accordance with section 90 of the Act.

Issues to be Decided

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to recover the filing fee?

Background and Evidence

The landlord provided the following particulars regarding the tenancy. It began September 16, 2021; rent is \$550.00, due on the first of the month; and the tenant paid a security deposit of \$275.00, which the landlord still holds.

A copy of the One Month Notice is submitted as evidence. It is signed and dated by the landlord, gives the address of the rental unit, states the effective date of the Notice, states the grounds for ending the tenancy, and is in the approved form.

The landlord testified he served the One Month Notice on the tenant by posting it to door on July 6, 2022. The landlord testified he was not aware of the tenant filing an application to dispute the Notice. The reason indicated on page 2 of the One Month Notice is that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, and the Details of the Events sections provides further information on this reason.

The landlord testified that the tenant is habitually loud, sometimes all night, prompting several complaints from neighbouring tenants; and that the tenant has many visitors who sometimes do drugs in the hallway at all hours of the night. The landlord testified that other tenants have moved out due to the subject tenant interfering with their quiet enjoyment of the property.

In support, the landlord submitted as evidence staff log notes recording multiple incidences in which the subject tenant or her guests disturbed other tenants, as well as a recent letter of complaint from another tenant stating they had been awakened repeatedly throughout the night by noise from the tenant and her guests. The letter notes that someone from the front desk of the property came up twice that night to speak to the subject tenant and her guests.

Analysis

Section 47(4) of the Act provides that upon receipt of a One Month Notice, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I find that the One Month Notice is deemed received by the tenant on July 9, 2022, three days after posting, in accordance with sections 88 and 90 of the Act.

I find that the landlord's One Month Notice meets the form and content requirements of section 52 of the Act as it is signed and dated by the landlord, gives the address of the rental unit, states an effective date of the notice, states the reason for ending the tenancy, and is in the approved form.

I find that the tenant has failed to file an application for dispute resolution within 10 days of July 9, 2022, the timeline granted under section 47(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ends on the effective date of the One Month Notice, August 31, 2022, and must vacate the rental unit.

Therefore, in accordance with section 55 of the Act, I find that the landlord is entitled to an order of possession.

As the landlord testified that the tenant still occupies the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, February 3, 2023.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in his application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

In accordance with section 72 of the Act, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction.

Conclusion

The landlord's application is granted.

The landlord is granted an order of possession which will be effective two days after it is served on the tenant. The order of possession must be served on the tenant. The order of possession 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 03, 2023

Residential Tenancy Branch