



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding VICTORIA COOL AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The landlord applied for an order of possession of the rental unit pursuant to a One Month Notice to End Tenancy for Cause (Notice/1 Month Notice) served to the tenant.

The landlord's agent (agent) attended the telephone conference call hearing; the tenant was not present at the beginning of the hearing. There was no written evidence for the hearing filed by the tenant.

The agent provided their affirmed testimony. The agent testified that they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on November 9, 2022. The agent submitted documentary evidence containing the tracking number for the mail.

Based upon the submissions of the agent, I find the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's initial absence.

After taking testimony from the agent, the tenant dialled into the hearing and was affirmed. The tenant confirmed receiving the 1 Month Notice and that she did not file an application for dispute resolution to dispute the Notice.

During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the proceedings.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

I did not hear testimony from the tenant at the hearing as the tenant disconnected from the hearing prior to that time.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit as a result of the Notice?

Background and Evidence

The landlord's evidence was that the tenancy began on November 3, 2017.

The agent submitted evidence by way of testimony and a signed proof of service that they served the tenant the 1 Month Notice by attaching it to the tenant's door on September 1, 2022. The Notice was dated August 31, 2022, and listed an effective move out date of September 30, 2022. The landlord filed a copy of the Notice into evidence.

The causes listed on the Notice stated that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, put the landlord's property at significant risk, and has caused extraordinary damage to the rental unit.

The events leading to the Notice being issued were described on the Notice as follows:

Details of the Event(s):

The Tenant's son set off the fire sprinkler head in the unit, causing extensive water damage to the unit and two other units.

The Tenant has not cooperated with the Landlord in a timely manner to remove her belongings to dry out the unit to keep it from further damage

The tenant has a dog that is supposed to be under her control at all times in common areas and muzzled.

The tenant does not close her unit door so the dog is not under her control and is able to attack people as they go by her unit. The Tenant is not able to muzzle the dog and the dog has now severely bitten another resident in an unprovoked attack.

[Reproduced as written except for anonymizing personal information to protect privacy]

The agent said the tenant continues to present a health and safety risk to the other tenants and the residential property.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

I find the landlord submitted sufficient evidence to prove that the tenant was served with the Notice as declared by the landlord on September 1, 2022, by attaching it to the tenant's door, which listed an effective move-out date of October 31, 2022.

As the documents posted to a door are deemed received on the 3rd after service, I find the 1 Month Notice was deemed received on September 4, 2022. Therefore, the effective move-out date of September 30, 2022, is automatically corrected to October 31, 2022.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such an application within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the corrected effective date of the Notice, in this case, October 31, 2022.

I have no evidence before me that the tenant filed an application for dispute resolution to contest the Notice and the tenant confirmed they did not file an application.

I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the corrected effective date of the Notice, or October 31, 2022.

I have reviewed the Notice and find it was completed in accordance with section 47 of the Act and was on the approved form with content meeting the statutory requirements under section 52 the Act.

I have reviewed the landlord's undisputed evidence and find they had sufficient cause to end the tenancy based upon the reasons listed.

I therefore **order** the tenancy ended on October 31, 2022.

I find the landlord is entitled to and I **grant an order of possession of the rental unit (Order)**, pursuant to section 55(2)(b) of the Act, effective two days after service of the order upon the tenant.

The tenant must be served the Order to be effective. If the tenant fails to voluntarily comply by vacating the rental unit immediately, the Order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court if it becomes necessary.

The tenant is cautioned that costs of such enforcement, **such as bailiff costs and filing fees**, are recoverable from the tenant.

Conclusion

The tenancy has been ordered ended on October 31, 2022.

The landlord's application for an order of possession of the rental unit effective two days after service on the tenant is granted.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 03, 2023

Residential Tenancy Branch