



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

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

DECISION

Dispute Codes OPC, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on October 26, 2022 seeking an order of possession for the rental unit. They also seek reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on March 6, 2023.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing.

The Tenant confirmed they received the Landlord’s prepared documentary evidence for this hearing. The Tenant did not prepare documents of their own for this process. On the basis of confirmed disclosure, I proceeded with the hearing as scheduled.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for cause pursuant to s. 55 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord submitted a copy of the residential tenancy agreement which the parties signed on June 9, 2021. The tenancy began on August 1, 2021. There were three tenants on the original agreement; however, 2 other tenants moved out in 2022. The set rent amount is \$2,250.

The Landlord submitted as evidence a copy of the One Month Notice to End Tenancy for Cause (the "One-Month Notice") dated July 8, 2022. The reason for the issuance of the document was: the tenant is repeatedly late paying rent. This set the move-out date for August 31, 2022.

For details on that document, the Landlord provided that the Tenant was late paying rent on August and December 2021 and January February, March, April, and May 2022. In the evidence, the Landlord provided e-transfer records of the date of rent payments. These precise dates are as listed on the One-Month Notice

The Tenant here acknowledged they received the One-Month Notice from the Landlord, via registered mail in July 2022. They did not apply to the Residential Tenancy Branch to dispute the Landlord's end of this tenancy.

The document itself provides that the Tenant had 10 days from the date received to challenge the end of tenancy via dispute resolution. If they did not apply to dispute, the tenancy would end on the date indicated, August 31, 2022.

In the hearing, the Tenant confirmed they did not apply within this timeframe, with another previous dispute process running at that time. The Tenant stated plainly that the issue was due to previous roommates, who were responsible for forwarding portions of the rent, with completed transactions arriving late before the payment of the full amount to the Landlord. They advised there have been no late rent payments since the other two roommates left in 2022. They also queried not having adequate notice from the Landlord about late rent payments in the past.

Analysis

The Act s. 47 allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, the following applies:

- b) the tenant is repeatedly late paying rent;

Following this, s. 47(4) allows a tenant who receives a notice to end tenancy 10 days to submit an Application for Dispute Resolution to cancel the notice. Then, s. 47(5) stipulates that if a tenant fails to apply within 10 days, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and they must vacate the rental unit.

I have reviewed the Notice, and I find it complies with the form and content requirements of s. 52 of the Act. I find that the Tenant did not dispute the Notice within ten days as necessitated by s. 47(4). The Tenant confirmed this in the hearing. I find that the Tenant is conclusively presumed to have accepted that the tenancy has ended in accordance with s. 47(5).

I find the Landlord has the authority to issue the Notice under s. 47 of the Act. I grant the Landlord's request for an Order of Possession under s. 55 of the Act.

I order the Landlord to retain \$100 from the Tenant's security deposit of \$1,1250 in full satisfaction of the monetary award for the filing fee. The remainder of the Tenant's security deposit of \$1,250 will be dealt with at the end of this tenancy in accordance with s. 38 of the Act.

Conclusion

I grant an Order of Possession to the Landlord effective **TWO DAYS after service of this Order** 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: March 6, 2023

Residential Tenancy Branch