



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

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 attended the telephone conference call hearing; the tenant did not attend or file written evidence for the hearing.

The landlord provided their affirmed testimony. The landlord testified that they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on November 3, 2022. The landlord submitted documentary evidence containing the tracking number for the mail.

Based upon the submissions of the landlord, 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 absence.

During the hearing the landlord 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.

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 January 31, 2022.

The landlord submitted evidence by way of testimony and a signed proof of service that they served the tenant the 1 Month Notice by personal service on September 26, 2022. The Notice was dated September 26, 2022, and listed an effective move out date of October 31, 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 significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk.

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

Details of the Event(s):

[redacted] has a habitual habit of storing personal belonging in the hallway outside of his unit (210). I have spoken to [redacted] about this many times, both verbally, and in writing. It has been made very clear to him 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. Unfortunately, when staff or myself address these issues with [redacted], he can become aggressive and belligerent. [redacted] also has two warning letters on file due to unsafe practices while charging his lithium-ion batteries. Although he got rid of many of these batteries after a fire that took place in his unit on January 3rd, 2022, he still continues to use these unsafe practices, as documented in a warning letter given to him on August 29th, 2022. His overall lack of cooperation, aggressive and dismissive attitude, cause me great concern for the safety and well being of everyone that lives and works here.

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

The landlord said the tenant continues to present a fire and safety risk to the other tenants, themselves, 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 substantiate that the tenant was served with the Notice as declared by the landlord on September 26, 2022, by personal service, which listed an effective move-out date of 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 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.

I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the 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