



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding ASK WELLNESS SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPC, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order of possession for cause pursuant to sections 47 and 55; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was represented at the hearing by a director, KP and a site coordinator, LM. LM testified that she personally served the tenant with the Notice of Dispute Resolution Proceedings package on December 6, 2022. She served a second copy of the Notice of Dispute Resolution Proceedings with additional evidence by posting it to the tenant’s door on March 24, 2023. I find the tenant duly served with the Notice of Dispute Resolution Proceedings package on December 6, 2022 in accordance with sections 89 and 90 of the Act.

This hearing proceeded in the absence of the tenant pursuant to Rule 7.3 of the Residential Tenancy Branch Rules of Procedure.

Issue(s) to be Decided

Is the tenant conclusively presumed to have accepted the tenancy has ended?

Background and Evidence

The landlord gave the following undisputed testimony.

The landlord LM testified that she personally served the tenant with a 1 Month Notice to End Tenancy for Cause on October 5, 2022 at 10:00 a.m. A copy of the notice to end tenancy was provided as evidence, however page 2 of the document was not uploaded for my purview.

The landlord testified that the notice to end tenancy provided 2 reasons for ending the tenancy:

1. *the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;*
2. *the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*

Under “details of cause”, the landlord wrote:

tenant got letter may 6, 2020 for conduct.

July 22, 2022 breach of lease, repairs, unsanitary conditions

July 29, 2022 breach of lease, repairs, unsanitary conditions

Phone call October 3, 2022: advised by phone conversation to tenant support coordinator that tenant would continue to use porcelain bowl instead of the toilet.

The landlord testified that the tenant has not filed an application to dispute the notice to end tenancy.

Analysis

Pursuant to section 55(2)(b), a landlord may request an order of possession of a rental unit by making an application for dispute resolution if a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Pursuant to section 55(4)(a), In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 [Resolving Disputes], grant an order of possession.

I am satisfied the tenant was served with the landlord’s 1 Month Notice to End Tenancy for Cause on October 5, 2022 pursuant to sections 88 and 90 of the Act. The tenant did not file an application to dispute the notice within 10 days as required under section

47(4) of the Act. In accordance with section 55, the landlord is entitled to an order of possession.

Pursuant to section 47(3), a notice given to a tenant must comply with section 52 [form and content of a notice to end tenancy]. I have examined the landlord's notice to end tenancy, and I find it complies with the form and content provisions as described under section 52 of the Act. Although page 2 of the notice was not supplied as evidence, I accept the landlord's undisputed testimony that the reasons for ending the tenancy and the details of cause were provided to the tenant exactly as described by the landlord during testimony.

I find the tenant was served with an effective 1 Month Notice to End Tenancy for Cause and since the effective date stated on the notice has passed, I grant the landlord an Order of Possession effective 2 days after service upon the tenant.

The landlord was successful in their application and the \$100.00 filing fee is to be recovered. In accordance with the offsetting provision of section 72 of the Act, the landlord may retain \$100.00 of the tenant's security deposit in satisfaction of the monetary award.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in 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: April 14, 2023

Residential Tenancy Branch