



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding ESKAYLEE ENTERPRISES and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC FFT

Introduction

This dispute relates to a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 1 Month Notice to End Tenancy for Cause dated February 1, 2023 (1 Month Notice),
2. Filing fee of \$100.

The tenant and the agents attended the teleconference hearing and were affirmed. All participants were provided the opportunity to present their evidence orally and in documentary form and make submissions to me. The participants confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. I find the parties were served in accordance with the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

The email on the application were confirmed for both parties. The decision will be emailed to both parties.

Issues to be Decided

- Should the 1 Month Notice cancelled?
- If no, is the landlord entitled to an order of possession?
- Should the filing fee be granted?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on February 1, 2017, and converted to a month-to-month tenancy after January 31, 2018.

The tenant confirmed that they received the 1 Month Notice on February 6, 2023, which was confirmed by the registered mail tracking number RN 659 915 929 CA.

The tenant applied to dispute the 1 Month Notice on February 13, 2023, which is within the allowable 10 days of the 1 Month Notice being dated and served. The effective vacancy date listed on the 1 Month Notice was March 31, 2023, which has passed.

The 1 Month Notice lists 3 causes as follows:

☒ Tenant or a person permitted on the property by the tenant has (check all boxes that apply):

- ☐ significantly interfered with or unreasonably disturbed another occupant or the landlord.
- ☒ seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- ☒ put the landlord's property at significant risk

Details of Cause(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.

Details of the Event(s):

Condition of rental suite is very unsanitary & cluttered. We have given tenant multiple warnings that the suite must be cleaned up & decluttered (emails/verbal). Five breach letters have been issued to tenant stating that the tenant must be cleaned up & decluttered on: Feb.22/28 May 9/22, Oct. 24/22, Dec. 9/22 & Jan.16/23. There has been little change in the suite condition when last inspected on January 30/23.

The landlord submitted many colour photos in evidence to support that they did several inspections of the rental unit. The first series of photos relate to an inspection on February 17, 2022, and show a very dirty rental unit and evidence of hoarding. The first series of photos relate to an inspection on October 26, 2022, and show a very dirty rental unit and evidence of hoarding. The third series of photos relate to an inspection on January 30, 2023 and show a very dirty rental unit and evidence of hoarding.

In addition, the agents confirmed that RS performed a recent inspection on April 6, 2023 and that the rental unit continues to be dirty with evidence of hoarding.

The tenant was asked to respond to the photo evidence and stated that they have had 4 health issues, with each health issue taking 12 weeks to deal with. The tenant claims they have not been healthy for long enough to get the rental unit cleaned and to remove excess personal items. The tenant confirmed that they have not hired anyone to help cleaned due to insufficient finances. The tenant also admitted that they have not contacted any agencies to assist them to clean the rental unit to avoid being evicted.

The parties were advised during the hearing that I was satisfied that the tenancy must end due to the severe dirt and hoarding in the rental unit, which I find to be a health hazard, and will address further below. The agents stated that they are not willing to extend the end of tenancy date as the tenant has also refused help from family members and the landlord.

Analysis

Based on the above, the documentary evidence and the testimony of the parties, and on a balance of probabilities, I find as follows.

The 1 Month Notice has an effective vacancy date of March 31, 2023, which has passed. The tenant disputed the 1 Month Notice within the 10-day timeline provided for under section 47 of the Act to dispute a 1 Month Notice. Once a 1 Month Notice is disputed, the onus of proof is on the landlord to prove that the 1 Month Notice is valid.

I find that photo evidence clearly supports that the tenant has left the rental unit in a condition that is a health hazard even after several opportunities to clean it. I find that the hoarding and extreme dirty condition of the rental unit is unreasonable and that the tenancy must end.

Given the above, I find the landlord has provided sufficient evidence to support that the 1 Month Notice is valid and as a result, **I dismiss** the tenant's application to cancel the 1 Month Notice. I find it is not necessary to consider any of the other causes listed on the 1 Month Notice.

Pursuant to section 55 of the Act, and given that I find the 1 Month Notice complies with section 52 of the Act as it is signed and dated and on the proper form, I must grant an order of possession to the landlord. Therefore, I find the tenancy ended on March 31,

2023, the effective date listed on the 1 Month Notice. I grant the landlord an order of possession effective **April 30, 2023, at 1:00 p.m.** as money has been paid for use and occupancy for April 2023.

The filing fee is not granted.

Conclusion

The tenant's application is dismissed without leave to reapply. The 1 Month Notice issued is valid and is upheld. The tenancy ended on March 31, 2023.

The landlord is granted an order of possession effective April 30, 2023 at 1:00 p.m. This order must be served on the tenant and then may be filed in the British Columbia Supreme Court and enforced as an order of that court. The tenant may be held liable for the costs associated with enforcing the order of possession if they fail to vacate as required.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 11, 2023

Residential Tenancy Branch