



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was scheduled to convene at 9:30 a.m. on May 26, 2023 concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

The landlord attended the hearing and gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord testified that all of the landlord's evidence has been provided to the tenant. I accept that, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause dated January 31, 2023 was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this month-to-month tenancy began on November 1, 2013 and the tenant still resides in the rental unit. A copy of the tenancy agreement has been provided for this hearing which states that rent in the amount of \$700.00 is payable on the 1st day of each month. The landlord testified that rent is now \$805.00 per month, and there are currently no rental arrears. On November 1, 2014 the landlord collected a security deposit from the tenant in the amount of \$350.00 which is still held in trust by

the landlord, and no pet damage deposit was collected. The rental unit is a 1 bedroom suite in the upper level of a tri-plex; the landlord lives across the street.

The landlord further testified that on January 31, 2023 the landlord served the tenant with a One Month Notice to End Tenancy for Cause by posting it to the door of the rental unit. A copy has been provided for this hearing and it is dated January 31, 2023 and contains an effective date of vacancy of March 1, 2023. The reasons for issuing it state:

- Tenant is repeatedly late paying rent;
- 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;
 - put the landlord's property at significant risk;
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

Since the One Month Notice to End Tenancy for Cause was served, the tenant has been late paying rent 3 times in February, April and May. Only March's rent was paid on time. The landlord has also provided a tenant ledger.

The landlord conducted an inspection and found a tent in the bedroom, and the tenant said he was growing vegetables. There were also numerous pizza boxes piled by the back door 3 feet high and about 4 feet out. The tenant told the landlord his friend would be arriving with a truck to help remove them.

With respect to extraordinary damage, the landlord testified that he took photographs inside the rental unit showing mould around the tub and in the kitchen. Photographs have been provided by the landlord as evidence for this hearing.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, I have reviewed the One Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Act*.

I also accept the undisputed testimony of the landlord that the tenant has been repeatedly late paying rent, and that the tenant has put the landlord's property at significant risk by growing a garden in a tent in the bedroom, and that mould exists.

Considering the evidence and the testimony of the landlord, I see no reason to cancel the Notice. Therefore, the tenant's application is dismissed. Since the tenant has not been successful with the application the tenant is not entitled to recovery of the filing fee.

The law also states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. Having found that it is in the approved form, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant. The tenant must be served with the Order of Possession, which may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

This order is final and binding and may be enforced.

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: May 26, 2023

Residential Tenancy Branch