



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 convened by way of conference call concerning an application made by the tenant seeking an order cancelling a One Month Notice to End Tenancy for Cause, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing, and the parties agree that all evidence has been exchanged. The landlord gave affirmed testimony. 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 27, 2023 was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord testified that this month-to-month tenancy began on May 1, 2022 and the tenant still resides in the rental unit. Rent in the amount of \$1,800.00 is payable on the 1st day of each month and there are no rental arrears. On April 5, 2022 the landlord collected a security deposit from the tenant in the amount of \$900.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is the ground floor of a house, and the landlord resides in the upper level. A copy of the tenancy agreement has been provided by the tenant for this hearing.

The landlord further testified that the tenant was served with a One Month Notice to End Tenancy for Cause by leaving it at the door of the rental unit on or around January 28, 2023. A copy has been provided for this hearing by the tenant, and it is dated January

27, 2023 and contains an effective date of vacancy of March 1, 2023. The form contains reasons that are to be checked off, but none are checked, however a lengthy explanation is written in the Details of Cause(s) section.

The landlord testified that the tenant wasn't truthful at the beginning of the tenancy respecting work, the tenant hasn't worked at all, but has a home-based business. The landlord approached the tenant asking the tenant to pay half the utilities because hydro has increased substantially, but the tenant refused. Shortly after, the landlord talked to the tenant about repeatedly mopping the floor, and the washing machine was banging against the wall. The tenant tried to divert rather than explaining why he wasn't working. The tenant has been very hostile and looking for flaws.

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*.

The *Act* also specifies how a tenancy ends. In the case of ending a tenancy for cause, the reasons are set out in Section 47:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- (b) the tenant is repeatedly late paying rent;
- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i) has caused or is likely to cause damage to the landlord's property,

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) *[obligations to repair and maintain]*, within a reasonable time;

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 *[assignment and subletting]*;

(j) the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;

(k) the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

(l) the tenant has not complied with an order of the director within 30 days of the later of the following dates:

(i) the date the tenant receives the order;

(ii) the date specified in the order for the tenant to comply with the order.

In this case, the landlord has not checked off any of the boxes in the reasons for ending the tenancy. A landlord may not invent a reason, but must specify which section of the *Act* the tenant has allegedly breached. It is not sufficient to write an explanation in the Details of Cause(s) section.

Since the landlord has not complied with the law, I cancel the One Month Notice to End Tenancy for Cause and the tenancy continues until it has ended in accordance with the *Residential Tenancy Act*.

Since the tenant has been successful with the application the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant in that amount, and I order that the tenant may reduce rent for a future month by that amount, or may serve the order on the landlord and file it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated January 27, 2023 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant may reduce rent for a future month by that amount, or may otherwise recover it.

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