



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, FFT

Introduction

The Landlord seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 47 cancelling a One-Month Notice to End Tenancy signed on January 16, 2023 (the “One-Month Notice”); and
- return of the filing fee pursuant to s. 72.

G.C. appeared as agent for the Landlord. The Tenant did not attend the hearing, nor did someone attend on the Tenant’s behalf.

The Landlord’s agent affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Landlord’s agent advises that the Landlord’s application and evidence was served via registered mail sent on February 8, 2023. I accept the undisputed evidence and find that this was done in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I find that the Tenant received the Landlord’s application materials on February 13, 2023.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend the hearing, it was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

Issues to be Decided

- 1) Is the Landlord entitled to an order of possession?
- 2) Is the Landlord entitled to their filing fee?

Evidence and Analysis

The parties were given an opportunity to present evidence and make submissions. I have reviewed all included written and oral evidence provided to me by the parties and I have considered all applicable sections of the *Act*. However, only the evidence and issues relevant to the claims in dispute will be referenced in this decision.

General Background

The Landlord's agent confirms the following details with respect to the tenancy:

- The Tenant moved into the rental unit August 1, 2019.
- Rent of \$835.00 is due on the first of each month.
- A security deposit of \$400.00 was paid by the Tenant.

Is the Landlord entitled to an Order of Possession?

A landlord may request an order of possession under s. 55(2)(b) of the *Act* where they have served a notice to end tenancy and the tenant has not disputed the notice within the proscribed time limit. Under s. 47 of the *Act*, a landlord may end a tenancy for cause by given a tenant at least one-month's notice to the tenant. Upon receipt of a notice to end tenancy issued under s. 47 of the *Act*, a tenant has 10 days to dispute the notice as per s. 47(4).

The Landlord's agent advises that the One-Month Notice was served to the Tenant via registered mail sent on January 16, 2023. The Landlord's evidence includes a tracking receipt as proof of service for the One-Month Notice. I accept the Landlord's evidence on service of the One-Month Notice and find that this was done in accordance with s. 88 of the *Act*. Pursuant to s. 90 of the *Act*, I deem that the Tenant received the One-Month Notice on January 21, 2023.

As per s. 47(3) of the *Act*, all notices issued under s. 47 must comply with the form and content requirements set by s. 52 of the *Act*. I have reviewed the One-Month Notice provided to me by the Landlord and find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

The Landlord's agent advises that he is not aware of the Tenant filing to dispute the One-Month Notice.

As the One-Month Notice fulfils the form and content requirements, was served on the Tenant, and the Tenant failed to dispute it, I find that the conclusive presumption under s. 47(5) of the *Act* has been triggered. The Tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the One-Month Notice, being February 28, 2023 in this instance.

I find that the Landlord is entitled to an order of possession under s. 55 of the *Act*. The Tenant shall provide vacant possession of the rental unit within 2 days of receiving the order of possession.

Conclusion

I grant the Landlord an order of possession pursuant to s. 55 of the *Act*. The Tenant shall provide vacant possession of the rental unit to the Landlord within **two (2) days** of receiving the order of possession.

I find the Landlord was successful and is entitled to their filing fee. Pursuant to s. 72(1) of the *Act*, I order that the Tenant pay the Landlord's filing fee. Pursuant to s. 72(2) of the *Act*, I direct that the Landlord withhold \$100.00 from the security deposit they hold on behalf of the Tenant in full satisfaction of their filing fee.

It is the Landlord's obligation to serve the order of possession on the Tenant. If the Tenant does not comply with the order of possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that Court.

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 30, 2023

Residential Tenancy Branch