



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding CENTURY 21 QUEENSWOOD REALTY LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPC, MNRL-S, FFL

Introduction and Preliminary Matters

This hearing dealt with cross-applications filed by the parties. On February 16, 2023, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

On May 26, 2023, the Landlord applied for a dispute Resolution proceeding seeking an Order of Possession based on the Notice pursuant to Section 47 of the *Act*, seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On May 29, 2023, these hearings were set down and scheduled to commence via teleconference at 11:00 AM on June 9, 2023.

K.M. attended the hearing as an agent for the Landlord; however, the Tenant did not make an appearance at any time during the 24-minute teleconference. At the outset of the hearing, I informed K.M. that recording of the hearing was prohibited and she was reminded to refrain from doing so. As well, she provided a solemn affirmation.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 11:00 AM and monitored the teleconference until 11:24 AM. Only a representative of the Respondent dialed into the teleconference

during this time. 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 K.M. was the only other person who had called into this teleconference.

As the Tenant did not attend the hearing, I dismiss the Tenant's Application for Dispute Resolution in its entirety.

Based on Section 55 of the *Act* below, it was not necessary for the Landlord to make their own Application seeking an Order of Possession based on the Notice as the Tenant had already disputed it. As well, a claim for monetary compensation could not be considered in this hearing when the primary reason for the Applications pertained to the Notice. Moreover, given that this Application was made on May 26, 2023, the timeframe for service of documents would be too close to be considered fair to the other party. For all of these reasons, the Landlord's Application is dismissed with leave to reapply.

Order of possession for the landlord

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

(b) 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;

(c)the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97 (2) (a.1), requires the tenant to vacate the rental unit at the end of the term;

(c.1)the tenancy agreement is a sublease agreement;

(d)the landlord and tenant have agreed in writing that the tenancy is ended.

(3)The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

(4)In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 [Resolving Disputes],

(a)grant an order of possession, and

(b)if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

Regardless, Section 55(1) outlines that an Order of Possession must be granted to the Landlord if the Tenant disputes the Notice, the Notice complies with Section 52 of the *Act*, and the Tenant's Application is dismissed.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord's One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

Based on the above, as the Landlord's Notice is valid, as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, and as the Tenant's Application was dismissed, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of March 31, 2023, on the One Month Notice to End Tenancy for Cause, is changed to the nearest date that complies with the law.

Since that effective date has passed, I grant the Order of Possession effective **two days** after service of this Order on the Tenant.

As the Landlord was not successful in this Application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid.

Conclusion

The Tenant's Application is dismissed without leave to reapply.

The Landlord is provided with a formal copy of an Order of Possession effective **two days** after service on the Tenant. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Landlord's Application is dismissed with leave to reapply.

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: June 9, 2023

Residential Tenancy Branch