



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Vancouver Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code OPC

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on March 22, 2023 seeking an order of possession for the rental unit. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 27, 2023. In the conference call hearing, I explained the process and provided the attending party the opportunity to ask questions.

Preliminary Matter – notification to the Respondent Tenant

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. This means the Landlord must provide proof that they served the document in a verified manner allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Landlord stated they served the Notice of Dispute Resolution Proceeding to the Tenant by sealing it in an envelope and attaching it to the door of the rental unit. They did this on March 27, 2023, providing images of the door of the rental unit with the envelope attached to it.

The Landlord also sent registered mail to the Tenant on that same date. In both forms of service, the Landlord included the evidence they intend to rely on for this hearing.

I accept the Landlord’s evidence that they served the Notice, including their evidence, to the Tenant as required. This is sufficient for the purposes of the *Act*. Based on the submissions of the Landlord, I accept they served notice of this hearing and their evidence in a manner complying with s. 89 of the *Act*. The hearing proceeded in the Tenant’s absence.

Preliminary Matter – Landlord’s amended Application

In the hearing, the Landlord noted the Tenant had not paid rent for some time prior to the hearing date. They queried on whether they could be allowed to amend the Application to include unpaid rent as a proper topic for the hearing.

The *Act* s. 62 grants me the authority to determine disputes, and any matters to that dispute that arise under the *Act* or the tenancy agreement between the parties. The *Act* s. 64(3) specifically grants me the authority to amend an application, or permit an application to be amended. As per Rule 4.2 of the *Residential Tenancy Branch Rules of Procedure*, I find that unpaid rent is a circumstance that could reasonably be anticipated.

I so amend the Landlord's Application to include their claim for rent amounts owing, reviewed in detail below.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for cause pursuant to s. 55 of the *Act*?

Is the Landlord entitled to compensation for rent amounts owing, pursuant to s. 67 of the *Act*?

Background and Evidence

The Landlord submitted a copy of the residential tenancy agreement between the parties. The tenancy started on June 1, 2022 on a month-to-month basis. The agreement shows that the Tenant paid a \$692 security deposit.

The agreement established the monthly rent amount of \$375. In the hearing, the Landlord provided that the rent amount did not adjust since the start of the agreement.

The Landlord submitted as evidence a copy of the One-Month Notice to End Tenancy for Cause (the "One Month Notice") dated February 28, 2023. The reasons for the issuance of the document are:

- the tenant 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

- the tenant engaged in illegal activity that affected the quiet enjoyment, security, safety, or physical well-being of another occupant of the property

The One Month Notice provides that the tenant had ten days from the date of service to apply for Dispute Resolution or the tenancy would end on the stated effective end-of-tenancy date of March 31, 2023.

The Landlord served the document by attaching a copy to the Tenant's door at the rental unit on February 28, 2023. The Landlord took a photo of this, with the document inside an envelope, as the Landlord set out on the Proof of Service of the Notice to End Tenancy they provided in their evidence.

As of the date of the hearing, the Landlord advised the Tenant is remains occupying the rental unit, with no notice from the Tenant that they vacated or otherwise ended the tenancy. In the hearing, the Landlord clarified that they had not seen the Tenant at the rental unit property for approximately the last month.

The Tenant did not attend the hearing. There is no documentary evidence from the Tenant submitted to respond to the reasons for the issuance of the One Month Notice.

Analysis

The *Act* s. 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if, among other things, one or more of the listed conditions in that section applies.

Following this, s. 47(4) allows a tenant who receives a notice to end tenancy 10 days to submit an Application for Dispute Resolution to cancel the notice. Then, s. 47(5) stipulates that if a tenant fails to apply within 10 days, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and they must vacate the rental unit.

I have reviewed the One-Month Notice, and I find it complies with the form and content requirements of s. 52 of the *Act*. I find that the Tenant did not dispute the Notice within ten days, pursuant to s. 47(4). I find that the Tenant here is conclusively presumed to have accepted that the tenancy has ended in accordance with s. 47(5).

I grant the Landlord's request for an Order of Possession under s. 55 of the *Act*.

On my request, the Landlord provided a copy of the updated ledger to show rent amounts paid and owing by the Tenant. This shows a balance of \$65 owing on April 5, 2023, and then each of May and June rent unpaid. This amount in total is \$815.

By s. 67 of the *Act*, I order the Landlord to retain the full amount of the Tenant's security deposit of \$692. This is permitted as per s. 72(2) of the *Act*. I grant the Landlord a Monetary Order for the remaining amount of \$123.

Conclusion

I grant an Order of Possession to the Landlord effective **TWO DAYS after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to s. 67 and 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$123. I provide the Landlord with this Order, and they must serve this Order to the Tenant as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file this Order with the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: June 27, 2023

Residential Tenancy Branch