



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding CAPITAL REGION HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: Tenant: CNC RP
Landlords: OPC

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for cause pursuant to section 55;

The tenant requested:

- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

While the landlord’s agent (“landlord”) attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord gave sworn testimony that the tenant was served with the Dispute Resolution Package on March 24, 2023 and the subsequent evidence package on May 29, 2023 by way of posting the packages on the tenant’s door. The landlord provided the signed proof of service for both packages in their evidentiary materials. In accordance with sections 99, 89, and 90 of the Act, I find the tenant deemed served with the landlord’s packages 3 days after posting.

The landlord testified that they had served the tenant with a 1 Month Notice on January 13, 2023 by way of posting the 1 Month Notice on the tenant's door. The landlord provided the signed proof of service in their evidentiary materials. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the 1 Month Notice on January 16, 2023, 3 days after posting.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

Accordingly, **in the absence of any submissions in this hearing from the tenant, I order the tenant's entire application dismissed without leave to reapply.**

Issues to be Decided

Is he landlord entitled to an Order of Possession for cause?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here.

This month-to-month tenancy began on January 1, 2021. Market rent for the tenant's rental unit is set at \$1,200.00 per month. The tenant's contribution towards the rent is currently \$375.00, payable on the first of the month. The landlord holds a security and pet damage deposit of \$600.00 each deposit.

The landlord issued the 1 Month Notice on the following grounds:

- i) Breach of a material term of the tenancy agreement that was not corrected within a reasonable amount of time after written notice to do so;
- ii) The tenant or a person permitted on the property by the tenants has put the landlord's property at significant risk;

The landlord submits that despite multiple warning letters, the tenant continued to smoke on the smoke-free property. The tenant was informed that smoking is prohibited per the tenancy agreement, and that they must immediately rectify the breach may result in action being taken against the tenancy. The tenant was also informed that they were disturbing other tenants. The landlord submits that the tenant had started a mulch fire below the tenant's balcony, and upon inspection the staff noted tobacco and ashes

on the tenant's balcony. The landlord submitted copies of the beach letters in evidence. As well as photos taken on June 14, 2022.

Analysis

Section 55(1) of the *Act* reads as follows:

- 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.

A copy of the 1 Month Notice was submitted for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, February 28, 2023. In this case, this required the tenant and anyone on the premises to vacate the premises by February 28, 2023. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

I find that the landlord is entitled to an Order of Possession.

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.

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: July 04, 2023

Residential Tenancy Branch