



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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:

Landlord:

- an order of possession for cause pursuant to section 55.

Tenant:

- cancellation of the landlord’s One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:14 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on April 27, 2023, a copy of the landlord’s Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. A registered mail tracking number was provided in support of service.

Based on the above evidence, I am satisfied that the tenant was served with the landlord’s Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

I note that the tenant should have been aware of the hearing date, time and call in instructions as this dispute was initiated by the tenant and the tenant was required to serve a copy his Application for Dispute Resolution on the landlord. The landlord testified that he was not served with the tenant’s Application and that the night before the hearing the

landlord received an e-mail from the tenant's lawyer stating the tenant would be moving out.

Issues

Should the One Month Notice be cancelled? If no, is the landlord entitled to an order of possession for cause?

Background and Evidence

The landlord testified that on February 28, 2023, he served the tenant with the One Month Notice by posting a copy to the door of the rental premises. A picture of the One Month Notice posted to the tenant's door was submitted as proof of service. The One Month Notice had an effective date of March 31, 2023.

Analysis

I am satisfied that the tenant was deemed served with the One Month Notice on March 3, 2023, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the One Month Notice. If the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the One Month Notice. A notice given under this section must comply with the form and content requirements of section 52 of the Act.

Section 52 of the Act states as follows:

In order to be effective, a notice to end a tenancy 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.

I find that the One Month Notice served by the landlord is in compliance with the form and content requirements of section 52 of the Act. The Notice was signed and dated by the landlord, provided the address of the rental unit, stated the effective date of the Notice, stated the grounds for ending the tenancy and was in the approved form.

Although the tenant filed an application for dispute resolution, the tenant's application was not filed until April 14, 2023 which is not within the time limit required under the Act. The tenant also failed to attend the hearing or serve his Application on the landlord as required. The tenant's application is therefore dismissed in its entirety without leave to reapply.

The landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

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.

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 28, 2023

Residential Tenancy Branch