



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding KAMLOOPS NATIVE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes For the tenant: CNC, AS, OLC
For the landlord: OPC

Introduction

This hearing was convened as a result of the cross applications of the parties (application) for dispute resolution seeking remedy under the Residential Tenancy Act (Act).

The tenant applied for an order cancelling the One Month Notice to End Tenancy for Cause (Notice/1 Month Notice) issued by the landlord, authorization to assign or sublease the tenancy, and an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The landlord applied for an order of possession of the rental unit based on the 1 Month Notice.

The tenant, the tenants' adult sons, and the landlords attended the hearing, the hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. The parties were affirmed.

Thereafter the participants were provided the opportunity to present their evidence orally, refer to relevant documentary evidence submitted prior to the hearing, question the other party, and make submissions to me.

I have reviewed all oral, photographic, and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The tenant was not able to provide evidence that they served the landlord with their application for dispute resolution, evidence, and notice of hearing (NODRP). The landlords said they were not served with the tenant's NODRP.

As the Act requires the applicant to serve their application to the other party within 3 days of receiving the documents, I find the tenant failed to comply with the Act. As a result, I **dismiss** the tenant's application, **without leave to reapply**.

The landlord provided documentary evidence that they served the tenant their NODRP by registered mail and by service to the occupant living in the rental unit. I find the landlord submitted sufficient evidence the tenant was served as required.

Issue(s) to be Decided

Is the landlord entitled to an order of possession of the rental unit pursuant to their Notice?

Background and Evidence

The written tenancy agreement showed the tenancy began on March 1, 2014. Evidence showed that the monthly rent was initially subsidized, but that the tenant now pays current market rate, with the monthly rent at \$1450, due on the first day of the month.

The tenant said they vacated the rental unit in April 2023, and that their sons and another person still live in the rental unit. The tenant's sons are listed as occupants on the written tenancy agreement.

The 1 Month Notice was filed in evidence. The Notice was dated April 12, 2023 for an effective move-out date of May 31, 2023. The evidence shows the Notice was served to the tenant by registered mail, which the tenant confirmed receiving.

The 2 causes listed on the 1 Month Notice are:

1. Tenant is repeatedly late paying rent.

2. Breach of a material term that was not corrected within a reasonable time after the landlord gives written notice to do so.

On the details portion of the 1 Month Notice, the landlord wrote that the tenant has been late paying rent 7 times since September 2022.

At the hearing, the landlord said that in September and November 2022, and in January 2023, the tenant's rent payments were returned NSF. The tenant made late payments in January, February, March, April, June and July 2023, the monthly rent has been paid late.

The landlord filed records indicating the instances of late payments of rent.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The tenant confirmed that they vacated the rental unit in April 2023, which in effect, ended the tenancy. Only occupants remain in the rental unit.

The tenant's application has been dismissed without leave to reapply due to insufficient service of their NODRP.

Upon review, I find the Notice was on the RTB approved form and complies with the statutory requirements under section 52 the Act as to form and content.

After reviewing the evidence, I find the landlord had sufficient reason to end the tenancy as I find the landlord submitted sufficient evidence that the tenant has made at least 4 late rent payments since January 2023.

Given the above, pursuant to section 55(1) of the Act, I must grant an order of possession of the rental unit to the landlord.

As a result, I order the tenancy ended on May 31, 2023, the effective date of the Notice served to the tenant.

I therefore grant the landlord an **order of possession** of the rental unit effective and enforceable at **1:00 pm, August 31, 2023**, the date to which the landlord agreed at the hearing.

Should the tenant and occupants fail to vacate the rental unit pursuant to the terms of the order after being served, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenant is **cautioned** that costs of such enforcement, **including bailiff fees and costs**, are recoverable from the tenant.

Conclusion

For the reasons stated above, the tenant's application seeking cancellation of the 1 Month Notice, along with the other claims listed by the tenant, is dismissed, without leave to reapply, as they failed to serve the landlord with their application for dispute resolution.

The landlord has been issued an order of possession for the rental unit, effective at 1:00 pm on August 31, 2023.

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: August 08, 2023

Residential Tenancy Branch