



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Century 21 Queenswood Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, LRE, FFT

Introduction

The Tenant filed an Application for Dispute Resolution on May 22, 2023 seeking a cancellation of the One-Month Notice to End Tenancy for cause (the “One-Month Notice”), and reimbursement of the Application filing fee. The Tenant amended their Application on August 18, seeking suspension/set conditions on the Landlord’s right to enter the rental unit. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 12, 2023.

The Landlord attended the hearing; the Tenant did not attend. In the conference call hearing I explained the process and offered the Landlord the opportunity to ask questions. The Landlord presented oral testimony and referred to their evidence they had previously served to the Tenant.

Preliminary Matter – Tenant’s attendance

The Tenant did not attend the hearing, although I left the teleconference hearing open until 11:29am to enable them to call in to this teleconference hearing scheduled for 11:00am. I confirmed the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding generated when the Tenant applied. I also confirmed throughout the duration of the call that the Tenant was not in attendance.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, an arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply. On this basis, I dismiss the Tenant’s application for cancellation of the May 16, 2023 One-Month Notice. This is without leave to reapply on this issue.

I dismiss the Tenant's claim for reimbursement of the Application filing fee, without leave to reapply.

I also dismiss the Tenant's amendment wherein they seek to suspend or set conditions on the Landlord's right to enter the rental unit, without leave to reapply. For the parties' reference, a Landlord's right to enter the rental unit is set out in s. 29 of the *Act*:

29 (1)A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a)the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b)at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i)the purpose for entering, which must be reasonable;
 - (ii)the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c)the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d)the landlord has an order of the director authorizing the entry;
- (e)the tenant has abandoned the rental unit;
- (f)an emergency exists and the entry is necessary to protect life or property.

(2)A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

Issue(s) to be Decided

Is the Landlord entitled to an order of possession pursuant to s. 55 of the *Act*?

Background and Evidence

The evidence shows the Landlord issued and served the One-Month Notice to the Tenant on May 15, 2023. This was for the issue of the condition of the rental unit: the Landlord indicated this put their property at significant risk.

The Landlord advised the Tenant was still living in the rental unit as of the date of this hearing.

In the hearing, the Landlord described the condition of the rental unit having an impact on the neighbouring rental units, who complain to the Landlord about the odours. The Landlord provided a number of pictures of the rental unit interior showing the state of uncleanliness. The Landlord inspected the rental unit “several times” over the previous year. They have been trying to convince the Tenant to have cleaners enter the rental unit for the purpose of maintenance and cleaning in the rental unit.

In the hearing, the Landlord stated they were hoping to reach an agreement with the Tenant about the need for cleaning, as an alternative to ending the tenancy.

A copy of the One-Month Notice appears in the Tenant’s evidence they provided for this hearing. This shows the final end-of-tenancy date for June 30, 2023. On page 2 of the document the Landlord indicated the applicable reason for ending the tenancy and gave details on their interaction with the Tenant that led to them serving the One-Month Notice. This was a series of inspections and warnings from October 24, 2022 onwards, and then the unit remaining in “very poor condition.”

The Tenant did not attend the hearing to challenge this evidence.

Analysis

The *Act* s. 47(1) states that a landlord may end a tenancy for any of the reasons listed therein. One of the reasons is that of the Tenant putting the Landlord’s property at risk. That is what the Landlord indicated on page 2 of the One-Month Notice.

Following this, s. 47(4) of the *Act* states that within 10 days of receiving a notice a tenant may dispute it by filing an Application for Dispute Resolution.

I am satisfied that when the Landlord issued the One-Month Notice they had valid reasons for doing so. The evidence presented by the Landlord in this hearing bears this out. I find as fact that the Landlord served the One-Month Notice on May 15, 2023. There is no evidence contrary to that of the Landlord presented in the hearing. This finding is also supported by the fact the Tenant applied to dispute the One-Month Notice on May 22, 2023.

I dismiss the Tenant's Application to cancel the One-Month Notice, without leave to reapply.

Under s. 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied the One-Month Notice complies with the requirements under s. 52 regarding form and content, I must grant the landlord an order of possession.

I find that the One-Month Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession on the effective date. The Tenant shall end by the timeline set out on that Order of Possession, from the time the Landlord serves it to the Tenant as required.

Conclusion

In the absence of the Tenant, I dismiss their Application in its entirety and without leave to reapply.

I grant an Order of Possession effective two days after service of the Order of Possession on the Tenant. Should the Tenant fail to comply with this Order, the Landlord may file this Order with the Supreme Court of British Columbia where it will be enforced as an Order of that Court.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 14, 2023

Residential Tenancy Branch