

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's repeated Application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the One Month Notice)
- an order to restrict the Landlord's right to enter the rental unit

The Landlord acknowledged being served with the tenant's dispute package for the first application by registered mail on August 31, 2023. The Tenant's repeated application dispute package was not served. The Tenant did not provide any evidence. The Landlord confirmed they did not provide any evidence.

The Tenant did not attend the hearing, although I waited on the teleconference line for 25 minutes, until 9:55am, to allow them an opportunity to attend the hearing which started at 9:30am.

### **Issues to be decided**

Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Is the Tenant entitled to an order to restrict the Landlord's right to enter the rental unit?

### **Facts and Analysis**

This tenancy began on May 25, 2017, with a monthly rent of \$815.00 due the first day of each month, and a security deposit of \$300.00.

The Landlord testified as follows. The previous landlord issued the One Month Notice to the Tenant on August 22, 2023, by posting to the door of the rental unit. The Tenant applied to cancel the Notice and served the Landlord with their application on August 31, 2023.

The Landlord took over management of the rental property in October 2023. The Tenant has not paid rent for November or December 2023. The Landlord posted a 10 Day Notice to the door of the rental unit on November 2, 2023. The Tenant did not remove the Notice from the door or respond in any way.

The Landlord entered the rental unit after giving notice by posting to door, on November 28, 2023. The Landlord found the rental unit empty, except for some garbage and a few small personal items. The Tenant moved out but never notified the Landlord they were leaving. All the furniture and living items were removed from the rental unit. The Landlord has not seen the Tenant and has not received any response to their communications to the Tenant.

The Landlord has contacted the Tenant's emergency contact, and that person has agreed to come pick up any belongings that were left behind at the rental unit and told the Landlord the Tenant has not lived there in November 2023.

**Should the Landlord's One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?**

Section 44(1)(d) of the Act says that a tenancy ends when a tenant vacates or abandons the rental unit.

Based on the undisputed testimony of the Landlord, I find the Tenant has moved out of the rental unit. I find this tenancy ended on November 1, 2023, after the Tenant moved out and did not pay rent for November 2023.

For these reasons, the Tenant's application to cancel the One Month Notice is dismissed, without leave to reapply.

This tenancy ended on November 1, 2023, under section 44(1)(d) of the Act. The Landlord has exclusive occupancy of the rental unit. An order of possession is not required, as the Tenant has vacated the rental unit.

**Is the Tenant entitled to an order to restrict the Landlord's right to enter the rental unit?**

The Tenant has moved out of the rental unit and this tenancy has ended. For these reasons, the Tenant's application for an order to restrict the Landlord's right to enter the rental unit is dismissed, without leave to reapply.

**Conclusion**

The Tenant's application is dismissed in its entirety.

I find this tenancy ended on November 1, 2023, and the Landlord has exclusive occupancy of the rental unit, under section 44(1)(d) of the Act. An Order of Possession is not required, as the Tenant has moved out of the rental unit.

The Landlord is reminded to comply with Part 5 of the Residential Tenancy Regulation for any abandoned personal belongings of the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: December 8, 2023

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Residential Tenancy Branch