

DECISION

Introduction

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

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act
- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

And the Landlord's cross-application for:

- an Order of Possession under section 47 of the Act, based on the One Month Notice issued September 6, 2023
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Preliminary Matters

The Landlord attended at the date and time set for the hearing of this matter. Although I waited until 11:15 am to enable the Tenant to connect with the hearing scheduled for 11:00 am, the Tenant did not attend.

I confirmed that the correct call-in numbers and participant codes had been provided to the Tenant in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the respondent and I were the only persons who had called into this teleconference.

Under Rule 7 of the Rules of Procedure, I conducted the hearing in the Tenant's absence.

Under section 64(3)(c) I amend the Tenant's application to correct the Landlord's name as reflected by the tenancy agreement.

Issues to be Decided

Is the tenancy at an end?

Is the Tenant entitled to any orders against the Landlord under section 62 or 70 of the Act?

Is the Landlord entitled to recover the filing fee for this application from the Tenant?

Facts and Analysis

Evidence was provided that this tenancy began in May or June 2023, with a monthly rent of \$1,650.00 due on the first day of each month, and with a security deposit in the amount of \$700.00.

The Landlord issued a One Month Notice on September 6, 2023, requiring the Tenant to vacate the rental unit by October 6, 2023, for frequent late payment of rent, significant interference or unreasonable disturbance with the Landlord or another occupant, and subletting without consent.

I find the One Month Notice complies with section 52 of the Act. Under section 53(2) of the Act, I correct the effective date of the One Month Notice to October 31, 2023, to provide one rental month's notice as required under section 47 of the Act.

I accept the Landlord's undisputed testimony that they served the One Month Notice in person to the Tenant on September 6, 2023.

I find the Tenant applied to dispute the One Month Notice on September 29, 2023, more than 10 days after receiving it. Therefore, under section 47(5) of the Act, I find the Tenant is conclusively presumed to have accepted the end of the tenancy on the corrected effective date of the notice, October 31, 2023.

As the Landlord testified that it appears the Tenant has not vacated the rental unit, I grant the Landlord an order of possession under section 55 of the Act.

As the tenancy is at an end, I find the Tenant is not entitled to any orders under section 62 or 70 of the Act.

As the Landlord was successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. Under section 72 of the Act, I authorize the Landlord to retain \$100.00 from the security deposit in satisfaction of this award.

Conclusion

I dismiss the Tenant's application in its entirety, without leave to reapply.

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.

Under section 72 of the Act, I authorize the Landlord to retain \$100.00 from the Tenant's security deposit in satisfaction of their filing fee for this matter.

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: January 10, 2024

Residential Tenancy Branch