



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with the cross Applications for Dispute Resolution filed by these parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on April 3, 2024. The Tenant filed their Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) to cancel a One-Month to End Tenancy for Cause, (the “Notice”) issued on March 27, 2024, for an order to restrict the right of the Landlord to access the rental unit, and to recover the filing fee for this application.

The Landlord’s Application for Dispute Resolution was made on April 22, 2024. The Landlord applied for an order of possession to enforce a One-Month to End Tenancy for Cause, (the “Notice”) issued on March 27, 2024.

The Landlord and their agent (the “Landlord”) as well as the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Service of Notice of Dispute Resolution Proceeding

- I find that the Landlord acknowledged service of the Proceeding Package and are duly served in accordance with the Act.

Service of Evidence

- Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.
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Preliminary Matter – Related Issues

I have reviewed the Tenant's application, and I note that they have applied to cancel a Notice to end tenancy as well as another issue. I find that this other issue is not related to the Tenant's request to cancel the Notice. As this other matter does not relate directly to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

I explained to the parties, at the outset of the hearing, that I am dismissing with leave to reapply the Tenant's claim for an order to suspend or set conditions on the landlord's right to enter the rental unit or site.

I will proceed with this hearing on the Tenant's remaining claims before me, to cancel the Notice and recover the filing fee.

Issues to be Decided

- Should the Notice to End Tenancy be cancelled?
- If not, is the Landlord entitled to an order of possession pursuant to section 55 of the Act?
- Is the Tenant entitled to the return of his filing fee?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

Both parties agreed that the Landlord served the One-Month Notice to end tenancy to the Tenant on March 27, 2024, by posting the notice to the front door of the rental unit. The reason for the Notice was checked off as follows:

- *Tenant or a person permitted on the property by the tenant has:*
 - *Put the Landlord's property at significant risk*
- *Breached of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The Landlord submitted that the Tenant prevented them from accessing the rental unit to content the annual fire inspection. The Landlord submitted that they issued written notice to the Tenant on March 18, 2024, by posting the notice to the front door of the rental unit. The Notice advised the Tenant that the annual fire inspection of the rental property would be conducted on March 21, 2024, and that all units would be accessible due to that inspection between 10 am to 3 pm.

The Landlord submitted that on March 21, 2024, when their staff attempted to access the rental unit with the fire inspector, and the Tenant refused them access the rental unit. A new notice of entry was left for the Tenant with a material term breach letter, on March 21, 2024, stating that they would attempt the fire inspection again the following day, on March 22, 2024. The Landlord testified that the Tenant again refused their fire inspector access to the rental unit on March 22, 2024.

The Landlord submitted that they attended the rental unit on March 22, 2024, issuing the Tenant a third and final notice of access to conduct the fire inspection, scheduled for March 27, 2024.

The Landlord submitted that when they attended the rental unit with their inspector on March 27, 2024, the Tenant again refused them access to the rental unit. The Landlord submitted seven documents into documentary evidence.

The Tenant testified that they put a chair against the door of the rental unit to prevent the Landlord and the inspector from entering, agreeing that they refused the Landlord access to the rental unit to conduct the fire inspection.

The Tenant testified that they did not collect the access notices left for them, on the front door of the rental unit, and that they believed the fire inspections should be conducted without accessing the rental unit. The Tenant submitted ten documents into documentary evidence.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant was deemed to have received the Notice, three days after it was posted to the front door of the rental unit, on March 30, 2024, pursuant to the deeming provisions stipulated in section 90 of the *Act*.

Section 47 of the *Act* states the following:

Landlord's notice: cause

47 (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Pursuant to section 47, I find the Tenant had until April 6, 2024, to file their application to dispute this Notice. I have reviewed the Tenant's application for dispute resolution, and I find that the Tenant filed her application on April 3, 2024, within the legislated timeline.

I have carefully reviewed the testimony and the documentary evidence submitted to these proceedings by these parties and the documentary evidence, and I find that the Tenants actions of preventing the Landlord from conducting the annual fire inspection of this rental unit, on three separate occasions, did put the Landlord's property at risk.

For the reasons stated above, I find that the Tenant has put the Landlord's property at significant risk by preventing the Landlord from conducting the annual fire inspection of the rental unit. Therefore, I dismiss the Tenant's application to cancel the Notice issued on March 27, 2024.

I find the Notice dated March 27, 2024, is valid and enforceable. Section 55(1) of the Act states the following:

Order of possession for the landlord

55(1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the *Act*. As I have dismissed the Tenant's application, pursuant to section 55 of the *Act*, I must grant the Landlord an order of possession to the rental unit.

Therefore, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*, effective not later than 1:00 p.m. on June 30, 2024. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenants' application to cancel the Notice, dated March 6, 2020, is dismissed. I find the Notice is valid and complies with the *Act*.

The Tenant's application to recover the filing fee for their application, is dismissed.

I grant an **Order of Possession** to the Landlord effective not later than 1:00 p.m. on **June 30, 2024**, 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: June 3, 2024

Residential Tenancy Branch