

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) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

The hearing also addressed the Landlord's application under the Act for:

- an Order of Possession for the rental unit;

Tenant J.T. attended the hearing.

Landlord L.W. attended the hearing.

Service of Notice of Dispute Resolution (Proceeding Package) and Evidence

Both parties acknowledged receipt of the appropriate Proceeding Package and evidence. Neither party submitted concerns with regards to the timing or nature of service.

Preliminary Matters

The Landlord named a neighbor as a party to the dispute, this individual was removed as a party as their involvement is better defined as a witness.

Issues

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 for the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act?

Background and Evidence

This tenancy started on February 28, 2023, with a monthly rent of \$800.00 per month and a security deposit in the amount of \$400.00.

The Landlord submitted a copy of a #RTB-51 Address for Service form. The form specifies the following:

- by signing the form they understand and agree that they could be served documents related to the tenancy at the email address provided;
- that the type of documents served may have legislated time frames, and therefore it is important to only agree to using email for service if they are able to monitor it on a regular basis; and
- if the individual wished to make changes to the address or no longer wanted to be served by email the individual must notify the other party.

The #RTB-51, signed by the Tenant on February 21, 2023, included the Tenant's email address for service.

The Landlord served the Tenant a One Month Notice to End Tenancy for Cause (the "Notice") on July 23, 2024 at 2:19 P.M. The Landlord provided a copy of the email as evidence, which included subsequent communication with the Tenant at the same email address.

On August 8, 2024, the Landlord sent the Tenant an email following up on the Notice, asking about scheduling a move out inspection. The Tenant stated that they had not received a notice to move out, in a subsequent email that day the Tenant stated that he would have had to have given permission at the start of tenancy to be served through email.

On August 9, 2024, both parties applied for dispute resolution in regard to the Notice.

The Tenant states that he did not receive the email.

Analysis

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

Section 48 of the Act states that a landlord may give a one month notice to end a tenancy if a rental unit was provided to a tenant for the term of his or her employment, the tenant's employment is ended and the landlord intends to rent or provide the rental unit to a new employee.

Section 48(5) and (6) of the Act states that a tenant who has received a notice under this section, who does not make an application for dispute resolution within 10 Days after the date the tenant receives the notice, is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

The Tenant submits that he did not consent to be served via email and that he did not receive the email containing the Notice. The Landlord provided evidence that the Tenant did sign a #RTB-51 form consenting to email service which clearly lays out what the Tenant was agreeing to. The Landlord also provided a copy of the email which shows that it was sent to the provided address and that the Tenant responded to subsequent emails.

The Tenant did not provide any information to indicate that he did not receive the Notice for any reason other than a failure to monitor his email. Therefore, I find that the Tenant is deemed served on July 26, 2024, three days after being emailed the Notice, and that the Tenant is conclusively presumed to have accepted the end of tenancy on August 5, 2024.

I grant the Landlord an Order of Possession under Section 48 of the Act.

Is the Tenant entitled to an order for the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act?

As the Tenant is to end this issue is moot and therefore dismissed, without leave to reapply.

Conclusion

The Tenant's application is dismissed, without leave to reapply.

I grant an Order of Possession to the Landlord effective seven (7) days after this Order on the Tenants. Should the Tenants or any occupant on the premises 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 Act.

Dated: October 2, 2024

Residential Tenancy Branch