



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes TT: CNC
 LL: OPC-DR

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Tenant’s Application for Dispute Resolution was made on October 7, 2024 (the “Tenant’s Application”). The Tenants applied for the following relief, pursuant to the *Act*:

- to cancel a One Month Notice for Cause.

The Landlord’s Application for Dispute Resolution was made on October 11, 2024 (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for cause.

The Tenants, the Landlord, and their witnesses attended the hearing at the appointed date and time.

The Tenants testified that they served their Proceeding Package and documentary evidence package to the Landlord by regular mail on October 8, 2024. The Tenants stated that they did not provide any proof of service. The Landlord stated that they did not receive the Tenant’s Proceeding Package or evidence.

According to the Residential Tenancy Branch Rules of Procedure 3.1 (the “Rules of Procedure”); the applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;*
- b) the Respondent Instructions for Dispute Resolution;*
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and*
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].*

Section 89 of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution: An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The Residential Tenancy Branch Policy Guideline 12 (the "Policy Guidelines") states that; all parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.

I find that the Tenants have not served the Landlord in a manner required by Section 89(1) of the *Act*. Furthermore, the Landlords stated that they have not received the Application package or documentary evidence from the Tenants. In light of the above, I dismiss the Tenant's Application without leave to reapply.

Having made the above finding, I will now turn my mind to whether the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

The Tenants confirmed receipt of the Landlord's Proceeding Package and evidence. As there were no issues raised relating to the service of the Landlord's Application, I find the Landlord's documents were sufficiently served pursuant to Section 71 of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession, pursuant to Section 47 and 55 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on September 1, 2024. Currently, the Tenants pay rent in the amount of \$4,650.00, which is due to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$2,325.00.

The Landlord testified that she served the Tenants with a One Month Notice on September 27, 2024 by email. The Tenants confirmed having received the One Month Notice on the same day. The Landlord's reason for ending the tenancy on the One Month Notice is;

"Tenant or person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord"

The Landlord stated that the Tenants have been very noisy with their late-night partying, verbal arguments, and many guests attending the rental unit since the start of the tenancy. The Landlord stated that their long-term occupant who resided below the rental unit gave her notice to end tenancy as she could not put up with all the noise and disturbances. The Landlord provided a written statement from the long-term occupant expressing the impact that the Tenants have had on them, resulting in their need to

vacate their unit. Loud music, partying, verbal arguments, guests knocking on the occupant's door during the night were all contributing factors noted in the statement.

The Landlord stated that she has found drug paraphernalia and suspects the Tenants are under the influence. The Landlord stated that she has kept the lower rental unit vacant as she is unable to re-rent the lower unit given the current situation in the upper rental unit. The Landlord stated that the Tenants appeared to have sublet several rooms in the rental unit to unknown occupants without the Landlord's permission. The Landlord has attended the rental unit for an inspection on September 16, 2024 and neither Tenant was in attendance. Instead, there were other unknown occupants in the rental unit and there were locks installed on the bedroom doors.

The Tenants responded by denying making noise and stated that they just had family members attending to visit them. The Tenants stated that they work out of town and deny in substance misuse. The Tenants stated that their children don't wake up while they have guests over during the night, therefore, they are not being loud. The Tenant's witness stated that there are no issues or concerns at the rental unit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated on September 27, 2024 with an effective vacancy date of November 30, 2024. The Tenants confirmed having received the notice on the same date. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act.

I find that the Landlord has provided sufficient evidence to demonstrate that the Tenants have significantly interfered with the occupant who resided in the lower unit by having late night gatherings, loud music, verbal arguments, and guests knocking in their door.

The One Month Notice in the documentary evidence before me is signed and dated by the Landlord or an agent for the Landlord, gives the address of the rental unit, states the effective date of the One Month Notice and the reason for ending the tenancy, and is in

the approved form. As a result, I find that it complies with section 52 of the *Act* and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 of the *Act*.

Accordingly, I find the Landlord is entitled to an order of possession, which will be effective at 1:00 PM (Pacific Time) on December 31, 2024 after it is served on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

Conclusion

The Tenants' Application seeking cancellation of the One Month Notice is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective at **1:00 P.M. on December 31, 2024, after service of this Order** on the Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: November 29, 2024

Residential Tenancy Branch