



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC ERP LRE**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) under section 47;
- An order to restrict or suspend the landlord’s right of entry pursuant to section 70; and
- An order requiring the landlord to carry out emergency repairs pursuant to section 70.

The landlord attended the hearing. The landlord provided affirmed testimony, present evidence, and made submissions.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled hearing time for ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the tenant was provided the correct participant code.

The landlord testified that the tenant served him with the Notice of Hearing and evidence package. I find the tenant served the landlord pursuant to section 89 of the *Act*.

While the Rules of Procedure provide in section 3.5 that an applicant must be prepared to demonstrate to the satisfaction of the Arbitrator that the respondent was served with the originating documents, Rule 7.3 provides as follows:

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlord requested the hearing to proceed. Accordingly, pursuant to Rule 7.3, I ordered the hearing proceed in the absence of the applicant.

I informed the landlord of section 55 of the *Act* which requires, when a tenant submits an Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy in compliance with the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an order of possession under section 55 of the *Act*?

Background and Evidence

The landlord provided uncontradicted evidence as follows.

The parties entered into a residential tenancy agreement on November 1, 2017 which is ongoing. Monthly rent is \$900.00 payable on the first of the month. At the beginning of the tenancy, the tenant paid a security deposit in the amount of \$200.00 which the landlord holds. The tenant has not provided permission to the landlord to retain any portion of the deposit.

The parties conducted a condition inspection on moving in and the landlord submitted as evidence a copy of the report as signed by both parties.

The landlord testified he issued a One Month Notice to End Tenancy for Cause (“One Month Notice”) dated January 28, 2019; he personally served the tenant in the presence of the landlord’s witness on that day. The landlord submitted a copy of the Notice as evidence. The tenant applied on February 2, 2019 to dispute the Notice and also to claim additional relief.

The One Month Notice stated as follows:

- The tenant or a person permitted on the property by the tenant has
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - Put the landlord's property at significant risk.
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - Damage the landlord's property.

The landlord provided evidence primarily with respect to the third ground, that the tenant had damaged the landlord's property.

The landlord testified the tenant was responsible for twenty-eight holes in the walls of the unit created by punching or kicking. The landlord submitted photographs in support of his claim of damage to the unit which showed multiple holes in the walls of the unit.

The landlord also testified that the tenant was dealing drugs to school children in the school across the street from the unit and was growing marijuana plants for that purpose; the landlord stated he had removed six plants from the property.

Analysis

As the tenant has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the One Month Notice as well as the other relief requested by the tenant.

Pursuant to section 55(1), the director **must** grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 and the tenant's application is dismissed.

I determine the landlord's notice to end tenancy form complies with section 52. I have dismissed the tenant's application. I therefore find the landlord is entitled to an order of possession.

Conclusion

I dismiss the tenant's application without leave to reapply including the tenant's application to set aside the One Month Notice.

I grant the landlord an order of possession which is effective two days after service on the tenant.

The landlord must serve this order on the tenant.

If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia enforceable 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: March 29, 2019

Residential Tenancy Branch