



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HABITAT HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

While the landlord's agent attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this hearing scheduled for 9:30 a.m. The landlord's agent, DR, attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord's agent gave sworn testimony that on July 11, 2019, a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was served on the tenant by way of Registered Mail. A tracking number was provided in the landlord's evidentiary materials to confirm this registered mailing. Pursuant to sections 88, 89 and 90 of the *Act*, I find the tenant deemed served with the dispute resolution hearing package on July 16, 2019, five days after mailing.

The landlord's agent provided undisputed testimony that the tenant was served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice'), with an effective date of June 30, 2019, on May 27, 2019, which was posted on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was

deemed served with the landlord's 1 Month Notice on May 30 2019, 3 days after posting.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The landlord's agent provided undisputed testimony that this month to month tenancy began on April 1, 2012, with monthly rent currently set at \$328.00 plus \$106.00 for supportive services. The tenant currently still resides at this residence.

The landlord submitted the notice to end tenancy providing the following grounds:

1. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord issued the 1 Month Notice on May 27, 2019 after an incident that took place on May 21, 2019 which involved an assault by the tenant of another resident and their guest. The landlord included several documents in their evidentiary materials including incident reports and warning letters issued to the tenant.

The landlord's agent testified that since the tenant was sent the warning letters, and issued the 1 Month Notice, the tenant continues to act in a manner that is aggressive. The landlord's agent testified that the tenant has damaged the property and acted in a manner that has violated the safety and lawful rights of the staff and residents.

Analysis

Based on undisputed testimony of the landlord, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 52 of the *Act*., which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file

his application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, June 30, 2019.

In this case, this required the tenant and anyone on the premises to vacate the premises by June 30, 2019. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

As the landlord was successful in their application, I also allow the landlord to recover the filing fee for this application.

Conclusion

I find that the landlord's 1 Month Notice is valid and effective as of June 30, 2019.

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.

I issue a \$100.00 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover the filing fee for this application. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: August 27, 2019

Residential Tenancy Branch