



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY
(1974) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

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.

While the landlord's agent, AW ("landlord"), attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. The landlord's agent was given a full opportunity to be heard, to make submissions and to call witnesses.

The landlord gave sworn testimony that the landlord's Application for Dispute Resolution hearing package and evidence was personally served on the tenant on October 7, 2019. In accordance with sections 88 and 89 of the *Act*, I find the tenant duly served with the landlord's application and evidence. The tenant did not submit any written evidence for this hearing.

The landlord provided undisputed testimony that the tenant was served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice') on July 25, 2019 by way of posting the 1 Month Notice on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant deemed served with the 1 Month Notice on July 28, 2019, 3 days after posting.

Issues to be Decided

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

Background and Evidence

This month-to-month tenancy began on November 1, 2018. Monthly rent is set at \$375.00, payable on the first of the month. No security deposit was collected for this tenancy.

The landlord issued the 1 Month Notice on the following grounds:

The tenant or a person permitted on the property by the tenant has:

- i) significantly interfered with or unreasonably disturbed another occupant or the landlord;
- ii) put the landlord's property at significant risk; or
- iii) seriously jeopardize the health or safety or lawful right of another occupant or the landlord.

The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:

- i) adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant; OR
- ii) jeopardize a lawful right or interest of another occupant or the landlord.

The landlord provided a detailed summary of the incidents in support of their application for an Order of Possession dating back to October 24, 2018, listing incidents up to September 27, 2019. The landlord testified that the tenant has allowed a guest to enter the building despite the fact that the guest has been prohibited from entering the building. The landlord has communicated to the tenant repeatedly that this guest is not allowed on the premises, but the tenant has ignored the landlord's warnings. The landlord testified that the police have been involved as the tenant and guest have refused to abide by the landlord's order. The landlord submits that the tenant and the tenant's guest have jeopardized the health and safety of the staff and other occupants by refusing to abide by the prohibition.

Analysis

A copy of the 1 Month Notice was submitted by the landlord for this hearing, and I find that the landlord's 1 Month Notice complies with 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, August 31, 2019.

In this case, this required the tenant and anyone on the premises to vacate the premises by August 31, 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*.

Conclusion

I find that the landlord is entitled to an Order of Possession. I find that the landlord's 1 Month Notice is valid and effective as of August 31, 2019.

I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. Should the tenant and any occupant of this original rental agreement 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: November 4, 2019

Residential Tenancy Branch