



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

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

- an Order of Possession for cause, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 39 minutes. The two landlords, female landlord ("landlord") and "male landlord" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both landlords confirmed that they were married and are co-owners of the rental unit.

"Witness JR," who is the father of the male landlord, testified on behalf of the landlords and both landlords had equal opportunities to question the witness. The witness was excluded from the outset of the hearing and was recalled later by the landlords.

The landlord stated that the tenant was served with the landlords' application for dispute resolution, notice of hearing and first evidence package on October 21, 2020. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' application, notice of hearing and first evidence package on October 26, 2020, five days after its registered mailing.

The landlord stated that the tenant was served with the landlords' second evidence package on December 14, 2020. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' second evidence package on December 19, 2020, five days after its registered mailing.

The landlord stated that the tenant was served with the landlords' third evidence package on December 21, 2020. The landlord provided a Canada Post receipt and tracking number. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' third evidence package on December 26, 2020, five days after its registered mailing. I notified the landlords that I could not consider the landlords' third evidence package at this hearing or in my decision because it was deemed received late by the tenant, less than 14 days before this hearing, contrary to Rule 3.14 of the Residential Tenancy Branch *Rules of Procedure*.

The male landlord confirmed he posted the landlords' One Month Notice to End Tenancy for Cause, dated September 12, 2020 ("1 Month Notice") to the tenant's rental unit door on the same date. The landlord confirmed that she witnessed this service. 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 September 15, 2020, three days after its posting.

Issue to be Decided

Are the landlords entitled to an Order of Possession for cause?

Background and Evidence

While I have turned my mind to the landlords' documentary evidence and the testimony of the landlords and their witness, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlords' claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on August 1, 2020. Monthly rent in the amount of \$900.00 is payable on the first day of each month. A security deposit of \$450.00 was paid by the tenant and the landlords continue to retain this deposit. The tenant continues to reside in the rental unit with her daughter.

The landlord confirmed that the 1 Month Notice indicates an effective move-out date of October 13, 2020. The landlords seek an order of possession based on the 1 Month Notice. The landlord stated that the notice was issued for the following reason:

- *Tenant or a person permitted on the property by the tenant has:*
 - *significantly interfered with or unreasonably disturbed another occupant or the landlord.*

The landlord testified regarding the following facts. The tenant's daughter and the tenant's daughter's friend have caused multiple domestic disturbances, including screaming outside, possessing knives, and threatening to kill people. This has disturbed the occupants living above the rental unit, including witness JR, who are looking for a new place to live, and the occupants living in the upper unit of the building on the other side. On December 19, 2020, the landlord went to the rental unit during a domestic dispute and she was verbally assaulted by the tenant's daughter, so she ran away to avoid a physical assault and called the police. The police cautioned the landlord to avoid the tenant and her occupants and instead, call the police. These issues have caused stress to the landlords' marriage. The tenant has not paid rent to the landlords since September 2020 to present.

The male landlord stated the following facts. The landlords have made notes of the dates and times of all these incidents, which were provided as evidence for this hearing. The police were called three times regarding the rental unit and they cannot do anything except make the behaviour stop at the time. On December 23, 2020, the male landlord went to the rental unit to do a 24-hour inspection and the tenant's daughter pushed the door closed on his face and said she would call her mother, the tenant. The tenant then showed up 10 minutes later and let the male landlord into the rental unit.

Witness JR testified regarding the following facts. He lives in the same rental building as the tenant, directly above her unit. He pays rent to the landlords and has lived there for 12 years. The tenant's daughter and the tenant's daughter's friend scream, yell, slam doors, use foul language, and smoke at the rental property about eight times per month. There are 6 kids at the rental unit and the way they fight downstairs is like they are going to kill or hurt each other. Sometimes it is one hour of fighting, but it can go on for four hours. One of the girls was sitting on the lawn with a hunting knife. Witness JR is afraid to go downstairs, as he is in his upper 70s in age. He has called the police once in October 2020, he has seen the police at the rental unit twice, he has complained to the landlords about a dozen times regarding the tenant's daughter and her friends, and the lady living across the alley has tried to settle them down. He made the first complaint on August 3, 2020, two days after the tenant moved in. These issues occurred 7 times in December 2020, about 6 to 7 times in August 2020, a couple times in each of September and October 2020, and once in November 2020. He is planning to move out and is looking for a new place to live, because of these issues with the tenant's daughter and the tenant's daughter's friend.

Analysis

I am satisfied that the landlords have issued the 1 Month Notice for a valid reason. I find that the tenant and people permitted on the property by the tenant have significantly interfered with and unreasonably disturbed other occupants and the landlords.

I accept the testimony and evidence of the two landlords and their witness that the tenant's daughter and friends engage in screaming, yelling, slamming doors, possessing knives and threatening people. I find that the tenant's daughter and the tenant's daughter's friends are people permitted on the property by the tenant. I find that this behaviour disturbs the landlords, other occupants in the rental building, and other occupants in a neighbouring building. I find that this disruptive behaviour has continued since the 1 Month Notice was issued, as recently as December 2020, when the police were called.

The landlords have noted the dates and times of all these incidents, from August to December 2020, in the details of the cause in the 1 Month Notice and text messages to the tenant, copies of which were provided as evidence for this hearing.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of being deemed to have the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on October 31, 2020, the corrected effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by October 31, 2020.

As this has not occurred, I find that the landlords are entitled to an **order of possession effective two (2) days after service on the tenant**, pursuant to section 55 of the *Act*. The tenant has not paid rent to the landlords since September 2020, and the effective date of the notice has passed. I find that the landlords' 1 Month Notice complies with section 52 of the *Act*.

Conclusion

I grant an Order of Possession to the landlords **effective two (2) days after service on the tenant**. Should the tenant or anyone 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 *Residential Tenancy Act*.

Dated: January 05, 2021

Residential Tenancy Branch