



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on January 6, 2021 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- to cancel a One Month Notice to End Tenancy dated December 28, 2020 ("the One Month Notice"); and
- an order granting the return of the filing fee.

The hearing was scheduled for 9:30 AM on April 6, 2021 as a teleconference hearing. The Landlord and the Landlord's Agents attended the hearing at the appointed date and time. No one appeared for the Tenants until after the hearing concluded. The conference call line remained open and was monitored for 13 minutes before the call ended. 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, the Landlord's Agents, and I were the only persons who had called into this teleconference.

The Tenant K.L. attended the hearing 13 minutes late, after I had made my decision and concluded the hearing. The Tenant K.L. stated that she had slept in.

Preliminary Matters

Rule 7.1 of the Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As no one attended the hearing on time for the Tenants, the hearing commenced at the scheduled time. The hearing lasted 13 minutes, during which no one called in for the Tenants. As such, the Tenants' Application was dismissed without leave to reapply.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy 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 that is compliant with the *Act*.

The Landlord and the Landlord's Agents 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 Residential Tenancy Branch Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession in relation to the One Month Notice, pursuant to Section 55 of the *Act*?

Background and Evidence

The Landlord stated that the tenancy began on February 1, 2020. The Landlord stated that the Tenants are required to pay rent in the amount of \$1,350.00 which is due on the first day of each month. The Landlord stated that the Tenants paid a security deposit in the amount of \$650.00. The Landlord stated that the Tenant K.L. continues to occupy the rental unit.

The Landlord stated that the Tenant has had an unreasonable number of occupants in the rental unit. The Landlord stated that the Tenant has a consistent flow of guests attending the rental unit from the late evening to the early morning hours each night, which keeps the Landlord awake at night as the guests are often making loud noises and arguing with the Tenant. The Landlord installed a video surveillance system which has captured the volume of guests attended the rental unit. The surveillance footage

was submitted in evidence. The Landlord stated that Police has attended the rental unit to remove occupants who are not known to the Landlord.

The Landlord stated that the Tenant has also caused significant damage to the rental unit. The Landlord stated that he conducted an inspection of the rental unit on December 15, 2020 where it was discovered that the Tenant has removed all the cabinet doors in the kitchen. The Landlord stated that the Tenant also removed the shower door, put many holes in the walls, removed the blinds, and is running a hose from the sink to several fish tanks throughout the rental unit which has caused water damage. The Landlord provided pictures of the rental unit from the start of the tenancy, compared to the current condition of the rental unit which demonstrates the damage to the rental unit.

For the above mentioned reasons, the Landlord stated he served the Tenant in person with the One Month Notice on December 28, 2020 with an effective vacancy date of January 30, 2020.

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 in person with a One Month Notice to End Tenancy for Cause on December 28, 2020 with an effective vacancy date of January 30, 2021. Pursuant to Section 88 and 90 of the Act, the Tenant is deemed to have received the One Month Notice on December 28, 2020.

After receiving the One Month Notice, the Tenant made an Application to cancel the One Month Notice on January 6, 2021. As no one attended the hearing for the Tenants, their Application to cancel the One Month Notice is dismissed without leave to reapply.

Section 55 of the Act requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy 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 that is compliant with the Act.

I find that the One Month Notice complies with the requirements for form and content. I further find the Landlord has provided sufficient evidence to support the One Month Notice.

As the effective date of the One Month Notice has passed, I find that the Landlord is entitled to an order of possession effective 2 (two) days, after service on the Tenant, pursuant to section 55 of the Act. This order should be served onto the Tenant as soon as possible.

At the end of the hearing, once my decision was made and as the Landlord and their Agents were disconnecting from the hearing, the Tenant K.L. called into the hearing 13 minutes late. K.L. stated that she had slept in. I notified K.L. that the hearing had concluded and that her Application was dismissed without leave to reapply and that the Landlord is granted with an Order of Possession.

Conclusion

The Tenant did not appear at the time of the hearing; therefore, their Application is dismissed in its entirety without leave to reapply.

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. If the Tenant fails to comply with the order of possession it may be filed in 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: April 06, 2021

Residential Tenancy Branch