



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47.

This matter was scheduled to be heard at 9:30 a.m. on this date as a result of the tenant filing this application. The landlord participated in the teleconference, the tenant did not. As the tenant is the applicant, I am satisfied that they were aware of today's hearing, accordingly; the hearing proceeded and completed in their absence.

Issues(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord gave the following testimony. The tenancy began on April 1, 2021 with the rent of \$980.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on May 25, 2022 for the following reasons:

Landlord's notice: cause

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(b) the tenant is repeatedly late paying rent;

TW testified that the tenant has been late in paying the rent for the following months: November 2021, January 2022 to May 2022, inclusive. TW testified that the tenant's own receipts reflect the late payments and that he should be entitled to an order of possession.

Analysis

When a landlord issues a notice to end tenancy, they bear the burden of providing sufficient evidence to support the issuance of the Notice. The landlord needs only demonstrate that one of the reasons identified in the One Month Notice is valid in order to end a tenancy for cause.

In this case, the landlord has submitted undisputed evidence that the tenant paid rent late on at least three occasions since November 2021.

Residential Tenancy Policy Guideline #38 provides the following guidance regarding the circumstances whereby a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions...

However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the tenant cannot be said to be "repeatedly" late...

There is clear evidence that the written tenancy agreement requires the tenant to pay all of the rent by the first of each month. The evidence presented indicates that the tenant has been late in paying their rent on at least three occasions. For these reasons, I am satisfied that there is a recurring pattern of late payment of rent during this tenancy and that the landlord had adequate grounds to issue the One Month Notice for the tenant's late payment of rent.

Section 55 of the *Act* reads in part as follows:

55 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's One Month Notice was issued on the correct form and included all of the required information in order to comply with section 52 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the One Month Notice and issue the landlord an Order of Possession in accordance with section 55(1) of the *Act*.

Conclusion

I dismiss the tenant's application without leave to reapply. 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.

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: October 20, 2022

Residential Tenancy Branch