



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on November 28, 2022. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause (the Notice); and,
- to recover the filing fee from the tenant for the cost of this application.

The Landlord attended the hearing and provided affirmed testimony. However, the Tenant did not attend the hearing. The Landlord provided registered mail tracking information showing she mailed (to the rental unit) the Notice of Dispute Resolution Proceeding and evidence to the Tenant on June 23, 2022. Pursuant to section 90 of the Act, the Tenant is deemed served with this package 5 days after it was mailed.

The Landlord was given a full opportunity to be heard, to present evidence and to make submissions. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the landlord entitled to an order of possession under the Act?

Background and Evidence

The Landlord stated that they served the Tenant with the Notice by leaving a copy of the Notice on the Tenant's front door on May 26, 2022. A copy of the Notice was provided into evidence.

The Notice indicates several reasons and grounds for ending the tenancy. The Landlord indicated that the Tenant has hoarding tendencies, and as a result, they have tried to do suite inspections to follow up on her issue, but she has started to barricade the door and prevent access, in a highly aggressive and volatile manner. The Landlord stated that the Tenant smokes in the rental unit, and they have been unable to access her suite for fire alarm testing, which is a significant threat to building safety and other Tenants.

Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find:

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [*form and content of notice to end tenancy*]. Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, the Landlord issued the Notice for several reasons. Based on the Landlord's testimony, I am satisfied that the Landlord served the Tenant with the Notice, by posting it to the Tenant's door on May 26, 2022. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the Tenant received the Notice on May 29, 2022.

The Tenant had 10 days, until June 8, 2022, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice. I also accept the Landlord's explanations as to how the Tenant has put the Landlord's property at significant risk (as detailed on the Notice).

Therefore, the Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

Pursuant to section 72 of the Act, and since the Landlord was successful, I authorize the Landlord to retain \$100.00 from the Tenant's security deposit.

Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: November 29, 2022

Residential Tenancy Branch