



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARALLEL 50 REALTY AND PROPERTY MANAGEMENT
INC 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 a One Month Notice to End Tenancy For Cause (the "One Month Notice") pursuant to Sections 47, 55 and 62 of the Act.

The hearing was conducted via teleconference. The Landlord's Agents, JM and DM, attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord's Agents and I were the only ones who had called into this teleconference. The Landlord's Agents were given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord's Agents that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord's Agents testified that they were not recording this dispute resolution hearing.

The Landlord served the Tenant with the One Month Notice on May 16, 2022 by posting the notice on the Tenant's door. The Landlord uploaded a Proof of Service form #RTB-34 attesting to witnessed service. I find the One Month Notice was deemed served on the Tenant on May 19, 2022 according to Sections 88(g) and 90(c) of the Act.

The Landlord served the Notice of Dispute Resolution Proceeding package for this hearing to the Tenant by posting the notice on her door on November 10, 2022 (the "NoDRP package"). The Landlord uploaded a Proof of Service form #RTB-34 attesting to witnessed service. I find that the Tenant was deemed served with the documents for

this hearing three days after posting, on November 13, 2022, in accordance with Sections 89(2)(d) and 90(c) of the Act.

Issue to be Decided

1. Is the Landlord entitled to an Order of Possession for the One Month Notice?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord confirmed that this periodic tenancy began on February 1, 2020. Monthly rent is \$550.00 payable on the first day of each month. A security deposit of \$275.00 and pet damage deposit of \$275.00 were collected at the start of the tenancy and are still held by the Landlord.

The One Month Notice stated the reason the Landlord was ending the tenancy was because the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property;
- has engaged in illegal activity that has, or is likely to damage the Landlord's property; and,
- has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

The effective date of the One Month Notice was June 30, 2022.

The Landlord provided further details of the causes to end this tenancy as:

- *Tenant is in breach of material term 18 of rental agreement*
- *Complaints of constant traffic at all hours of the night disturbing other tenants*
- *Complaints of drug activity and trafficking taking place from the unit*

The Landlord's Agents stated the block the Tenant resides in is a family section. The Landlord's Agents testified that the Tenant has not disputed the One Month Notice and continues to prop an outside door open allowing non-residents access to the building. The Landlord's Agents also stated some of these people are subletting from the Tenant, although the Tenant remains in the unit.

The Landlord is seeking an Order of Possession.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

This hearing was conducted pursuant to Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 47 of the Act outlines how a tenancy can end for cause:

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:*

...

(d) *the tenant or a person permitted on the residential property by the tenant has*

(i) *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,*

...

- (e) *the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that*
 - (i) *has caused or is likely to cause damage to the landlord's property,*
 - (ii) *has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
 - ...
- (2) *A notice under this section must end the tenancy effective on a date that is*
 - (a) *not earlier than one month after the date the notice is received, and*
 - (b) *the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*
- (3) *A notice under this section must comply with section 52 [form and content of notice to end tenancy].*
- (4) *A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.*
- (5) *If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*
 - (a) *is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*
 - (b) *must vacate the rental unit by that date.*

The Landlord's One Month Notice was deemed served on May 19, 2022. I find the One Month Notice complies with the form and content requirements of Section 52 of the Act. The Tenant had 10 days after receiving the One Month Notice, May 29, 2022, to apply for dispute resolution. The Tenant did not apply for dispute resolution. I find, pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice which was June 30, 2022.

I must consider if the Landlord is entitled to an Order of Possession. Section 55 of the Act reads as follows:

Order of possession for the landlord

55 ...

(2) *A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:*

...

(b) *a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;*

...

(4) *In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 [Resolving Disputes],*

(a) *grant an order of possession, and*

...

I previously found that the Tenant did not apply to dispute the One Month Notice, and now the time for making that application has expired. I uphold the Landlord's One Month Notice. Pursuant to Section 55(4)(a) of the Act, I find the Landlord is entitled to an Order of Possession which will be effective two (2) days after service on the Tenant.

Conclusion

The Landlord's One Month Notice is upheld, and I grant an Order of Possession to the Landlord effective two (2) days after service on the Tenant. The Landlord must serve this Order on the Tenant as soon as possible. Should the Tenant fail to comply with this

Order, this Order may be filed and enforced as an Order of the British Columbia Supreme 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 Act.

Dated: December 05, 2022

Residential Tenancy Branch