



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OAKTREE ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The landlord applied on November 15, 2022 for:

- an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

Neither side raised an issue regarding service of the hearing materials.

Preliminary Matter

The parties were advised at the beginning of the hearing that they may not interrupt me, talk over me, interrupt each other, or allow distractions of any kind during the proceeding, pursuant to Rule 6.10:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Just prior to the end of the hearing, I muted the tenant because she repeatedly talked over me, disrupting the hearing. I had previously provided the tenant with multiple opportunities to speak, during which she provided testimony in dispute of the One Month Notice to End Tenancy for Cause (One Month Notice).

Issues to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

The parties agreed on the following particulars of the tenancy. It began October 1, 2020; rent is \$1,470.00, due on the first of the month; and the tenant paid a security deposit of \$725.00 which the landlord still holds.

The landlord testified they served the One Month Notice on the tenant by attaching it to the door on October 25, 2022; the tenant testified she was not sure when she received it, stating it may have been the first week of November. The tenant confirmed she did not file an application to dispute the Notice.

The Notice indicates the tenancy is ending because:

- the tenant is repeatedly late paying rent;
- the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk; and
- the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant paid rent late in May, June, July, and August 2022. The landlord submitted that the tenant has left the bathroom fan on while she was away for days at a time, which is a fire hazard as the fans have been known to overheat and cause fires. The landlord submitted that the tenant had also kept a large snake in her unit, a breach of a material term of the tenancy agreement, and did not remove it by the date requested.

As previously noted, the tenant provided testimony in dispute of the Notice, including to acknowledge that she had been late with rent, stating that she did not realize it was an issue. The tenant testified she had come to an agreement with the landlord regarding the payment of rent.

Analysis

Section 47(4) of the Act provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I find that the One Month Notice is deemed to be received by the tenant on October 28, 2022, three days after posting, in accordance with sections 88 and 90 of the Act. I find that the tenant has failed to file an application for dispute resolution within 10 days of October 28, 2022, the timeline granted under section 47(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the One Month Notice, November 30, 2022.

As the tenant still resides in the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, March 31, 2023.

I find that the landlord's One Month Notice meets the form and content requirements of section 52 of the Act as it is signed and dated by the landlord, gives the address of the rental unit, states an effective date of the Notice, states the reasons for ending the tenancy, and is in the approved form.

Therefore, in accordance with section 55 of the Act, I find that the landlord is entitled to an Order of Possession.

As the landlord was successful in their application, I find they are entitled to recover the filing fee from the tenant under section 72 of the Act.

Conclusion

The landlord's application is granted.

I hereby grant the landlord an Order of Possession, which must be served on the tenant and which is effective three (3) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I hereby grant the landlord an order to recover their filing fee from the tenant. In accordance with section 72 of the Act, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of this monetary award.

The security deposit for this tenancy is reduced by \$100.00 to \$625.00.

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 03, 2023

Residential Tenancy Branch