



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

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

DECISION

Dispute Codes OPC, FFL

Introduction

The Application for Dispute Resolution (the Application) was filed by the Landlord under the *Residential Tenancy Act* (the Act), on March 6, 2023, seeking:

- An Order of Possession for cause; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 11:00 pm on April 13, 2023, and was attended by two Agents for the Landlord (the Agents), both of whom provided affirmed testimony. No one attended on behalf of the Tenant. The Agents were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The Agents were advised that inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The Agents were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The Agents were also advised that personal recordings of the proceedings were prohibited under the Residential Tenancy Branch Rules of Procedure (Rules of Procedure) and confirmed that they were not recording the proceedings.

The Rules of Procedure state that the respondent must be served with a copy of the Application, the Notice of Hearing, and any documentary evidence intended to be relied upon at the hearing by the applicant(s). As the Tenant did not attend the hearing, I confirmed service of these documents as explained below.

The Agents testified in the hearing that the Notice of Dispute Resolution Proceeding package (NODRP), which includes the Application and the Notice of Hearing, along with

the documentary evidence before me from the Landlord, was sent to the Tenant by registered mail on March 13, 2023, the same date the NODRP became available to them from the Residential Tenancy Branch (Branch). The Agents provided a copy of the registered mail receipt with the tracking number. As a result, and in the absence of any evidence to the contrary, I find that the Tenant was deemed served on March 18, 2023, pursuant to sections 88(c) and 89(1)(c) of the Act.

Branch records indicate that the NODRP was made available to the Landlord for pickup, as per their request, on March 13, 2023. As I am satisfied that the NODRP was mailed to the Tenant on that same date, I therefore find that the Landlord complied with sections 59(3) of the Act and rule 3.1 of the Rules of Procedure.

I confirmed that the hearing details shown in the NODRP were correct and I note that the Agents were able to attend the hearing using this information. 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 or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party. Based on the above, I commenced the hearing as scheduled, despite the absence of the Tenant or an agent acting on their behalf.

I refer only to the relevant and determinative facts, evidence, and issues in this decision. At the request of the Agents, a copy of the decision and any orders issued in favor of the Landlord will be sent to them by mail.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to sections 47 and 55 of the Act?

Is the Landlord entitled to recovery of the \$100.00 filing fee?

Background and Evidence

The Agents testified that the One Month Notice was served on the Tenant in person by both of them on January 31, 2023. A proof of service document was also submitted.

The One Month Notice in the documentary evidence before me, dated January 31, 2023, has an effective vacancy date of March 1, 2023, and indicates that the reason for ending the tenancy is because:

- The Tenant has allowed an unreasonable number of occupants in the rental unit; and
- The Tenant has assigned or sublet the rental unit without the Landlord's written consent.

At the hearing, the Agents stated that the Tenant did not dispute the One Month Notice and sought an Order of Possession for the rental unit at the end of April 2023, as rent has already been paid in full for this month. The Agents also sought authorization to withhold \$100.00 from the \$450.00 security deposit in recovery of the filing fee.

Although the teleconference remained open for the 29-minute duration of the hearing, no one attended on behalf of the Tenant to provide any evidence or testimony for consideration.

Analysis

Section 47 of the Act outlines the grounds on which to issue a notice to end tenancy for cause. The Landlord has issued the One Month Notice on the basis of sections 47(1)(c) and 47(1)(i) of the Act.

Section 47(4) of the Act states that 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. Section 47(5) of the Act also states that 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 is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

I have reviewed all relevant documentary evidence and oral testimony and in accordance with section 88(a) of the Act, I find that the Tenant was personally served with the One Month Notice on January 31, 2023.

Section 55(2) of the Act states that a landlord may request an order of possession of a rental unit if 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.

Based on the affirmed testimony of the Agents and as there is no evidence before me to the contrary, I find that the Tenant did not dispute the One Month Notice within the 10-day period provided for under the Act, and that the time for doing so has expired. Based on the foregoing, 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, March 1, 2023. As a result, and as I find that the One Month Notice complies with the form and content requirements set out under section 52 of the Act, I therefore find that the Landlord is entitled to an Order of Possession pursuant to section 55(2)(b) of the Act.

Section 55(3) of the Act states that the director may grant an Order of Possession before or after the date when the tenant is required to vacate a rental unit and that the order takes effect on that date. As the effective date of the One Month notice has passed, the Tenant has paid rent for the month of April 2023, and as per the agreement of the Agents at the hearing, the Order of Possession will be effective at 1:00 P.M. on April 30, 2023.

Pursuant to sections 72(1) and 72(2)(b) of the Act, the Landlord is entitled to retain \$100.00 from the Tenant's \$450.00 security deposit in recovery of the filing fee. The remaining balance of the security deposit must be dealt with in accordance with the Act.

Conclusion

Pursuant to section 55(2)(b) of the Act, I grant an Order of Possession to the Landlord effective at **1:00 P.M. on April 30, 2023, after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to sections 72(1) and 72(2)(b) of the Act, the Landlord is entitled to retain \$100.00 from the Tenant's \$450.00 security deposit in recovery of the filing fee.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: April 13, 2023

Residential Tenancy Branch