

Decision

Dispute Codes:

OPC

FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord for an Order of Possession based on the One Month Notice to End Tenancy for Cause dated November 26, 2008, and to recover the filing fee for the cost of this application.

The evidence on the case file was reviewed prior to the Hearing and this Application proceeded on its merits.

Issue(s) to be Decided

The Landlord sought an Order of Possession based on the Notice to End Tenancy, plus reimbursement for the \$50.00 filing fee.

The issue to be determined based on the testimony and the evidence is:

- Whether the Landlord is entitled to an Order of Possession under section 55 of the Act, based on the One Month Notice to End Tenancy

Background and Evidence

The Landlord testified that he served the Tenant with the Notice to End Tenancy dated November 26, 2008 by posting it on the Tenant's door on November 26, 2008. He testified that he served the Tenant with the Application for Dispute Resolution filed on December 12, 2008, on December 16, 2008, by sending the documents via registered mail to the rental unit. He provided a tracking number for the registered mail, along with a copy of the customer receipt. The Landlord stated that a search of the Canada Post data base indicated that the Application for Dispute Resolution was received by the Tenant. The Landlord testified that he believes the Tenant is still living at the rental unit.

The Landlord testified that the Tenant paid a security deposit on February 25, 2005, in the amount of \$377.50. The monthly rent is \$795.00 and is due on the first of each month. The Landlord submitted that the Tenant has failed to pay rent for the months of December, 2008 and January, 2009. The total amount of arrears is \$1,590.00. The Landlord is not applying for a monetary order for rental arrears or damages today, but may make another application in the future with respect to a monetary order. The Landlord asked to recover the filing fee of \$50.00 from the Tenant.

Analysis

I find that the Tenant was served on November 29, 2008, with the Notice to End Tenancy dated November 26, 2008. The effective date for the end of the tenancy was December 31, 2008. The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of December 31, 2008. I therefore find that the Landlord is entitled to an Order of Possession.

The Tenant was served with the Application for Dispute Resolution and, although duly served, did not attend the Hearing.

The Landlord was successful in today's application and is therefore entitled to recover his filing fee in the amount of \$50.00.

Conclusion

Under section 55 of the Act, and based on the above facts, the Landlord is entitled to an Order of Possession and I hereby issue the order. The Tenant will have two days from the date of service of the order to vacate the premises. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord a monetary order under section 67 of the *Act* for \$50.00. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

January 14, 2009
