



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPQ, FF

Introduction

The hearing was scheduled in response to the an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession as the Tenant no longer qualifies for a rent subsidy and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on March 02, 2009. A Canada Post receipt, with a tracking number, was submitted in evidence. The Canada Post website shows the mail was delivered on March 05, 2009. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession and to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

Background and Evidence

The Agent for the Landlord stated that the Tenant has been residing in this rental unit since April 01, 2005.

The Agent for the Landlord stated that a Two Month Notice to End Tenancy was mailed to the Tenant by regular mail on December 10, 2008. The Notice to End Tenancy indicated that the Landlord was ending the tenancy because the Tenant no longer qualified for the subsidized rental unit. The Notice informed the Tenant that he must vacate the rental unit by February 28, 2009.

The Notice to End Tenancy for Cause informed the Tenant that he must move out of the rental unit by the date set out on the front page of the Notice if he does not dispute the



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Notice within fifteen days of receiving it. I have no evidence that the Tenant disputed the Notice to End Tenancy.

Analysis

In the absence of evidence to the contrary, I find that the Tenant received a Two Month Notice to End Tenancy, pursuant to section 49.1 of the Act, which required him to vacate the rental unit on, or before, February 28, 2009.

Section 49.1(6) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 49.1 of the *Act* and that they must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant accepted that the tenancy was ending on February 28, 2009, pursuant to section 49.1(6) of the *Act*. On this basis, I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on April 30, 2009.

I find that the Landlord's Application for Dispute resolution has merit and that the Landlord is entitled to compensation for the cost of filing this Application for Dispute Resolution.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on April 30, 2009. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution, and I grant the Landlord a monetary Order in that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and 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: April 23, 2009.

Dispute Resolution Officer