



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

2

Decision

Dispute Codes:

OPC

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.

I reviewed the evidence on the case file prior to the Hearing. The parties gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application for an Order of Possession for Cause.

Background and Evidence

Service

The Landlord testified that he served the Tenant with the Notice to End Tenancy for Cause on February 18, 2009, by handing the document to the Tenant, at her residence.

The Landlord testified that he mailed the Notice of Hearing documents to the Tenant at her residence, by registered mail, on March 23, 2009. The Landlord provided a copy of the registered mail receipt and a tracking number for the registered mail.

Landlord's testimony

The Landlord testified that he had formerly issued a Notice to End Tenancy for Cause on November 27, 2009, for the same reason and around the same circumstances, and had filed an Application for Dispute Resolution seeking an Order of Possession. At the Hearing of that matter, the Dispute Resolution Officer dismissed the Landlord's application with leave to reapply because the Tenant did not appear at the Hearing and the Landlord could not prove service of the Notice of Hearing documents on the Tenant. This Hearing is for the Landlord's re-application.

On the One Month Notice to End Tenancy for Cause issued February 18, 2009, the Landlord gives the following reason to end the tenancy: The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

The Landlord testified that on November 25, 2008, the Tenant's boyfriend broke into the common laundry room and caused damage to the washers and dryers while attempting to steal the money from the machines. The Landlord testified that the police were called and arrested the Tenant's boyfriend.

The Landlord testified that on another occasion, there were men known to the Tenant who were fighting in the Tenant's house and that there were people sleeping in the hallway outside of the Tenant's apartment.

Tenant's testimony

The Tenant denied that her boyfriend broke into the laundry machines. The Tenant testified that the Police arrested her boyfriend for digging 25 cents out of a shopping cart and charged him with mischief, but the charges were stayed.

The Tenant denied that there were men fighting in her apartment. The Tenant stated that the men were fighting in the hallway and that she did not know them. She stated that the men wanted to enter her apartment, but she did not let them in. The Tenant stated that she did know the woman who was with them. The Tenant stated that she did not know the people who were sleeping in the hallway outside of her door.

Analysis

I accept the Landlord's evidence that the Tenant was duly served with the Notice to End Tenancy for Cause, issued under Section 47 of the Act, by registered mail. Section 90 of the Act deems service by registered mail is deemed to be received on the 5th day after mailing the document. Therefore, I find that the Tenant was served with the Notice to End Tenancy on February 23, 2009.

Sections 47(4) and (5) of the Act states:

Landlord's notice: cause

- 47** (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 Tenant did not dispute the Notice to End Tenancy within 10 days of receipt of the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

The Notice gives an effective date of March 19, 2009, however Section 47(2) of the Act states:

Landlord's notice: cause

47

(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.

Therefore, the effective end of tenancy was March 31, 2009.

The Landlord is entitled to an Order of Possession and I make that Order.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

May 20, 2009
