

DECISION

Dispute Codes:

OPC; FF

Introduction

This is the Landlord's application for an Order of Possession for Cause; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord's agents gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

On May 27, 2009, the Landlord's agent mailed the Notice to End Tenancy to the Tenant, by registered mail, to the Tenant's residential address. The Landlord provided a copy of the registered mail receipt.

On July 17, 2009, the Landlord's agent mailed the Notice of Hearing documents to the Tenant, by registered mail, to the Tenant's residential address. The documents were returned to the Landlord's agent on August 6, 2009, unclaimed.

The tenancy has not been reinstated.

Analysis

I find that the Tenant was served with the Notice of Hearing documents in accordance with Section 89(c) of the Act. Section 90 of the Act deems service in this manner to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing Documents, the Tenant did not sign into the conference and the Hearing proceeded in his absence.

The One Month Notice to End Tenancy for Cause was served on the Tenant on May 30, 2009, in accordance with Section 88(c) of the Act. Within 10 days of being served with the Notice, the Tenant did not make an application for dispute resolution. Therefore, pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on June 30, 2009. The Landlord is entitled to an Order of Possession and I make that Order.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant. Pursuant to Section 72(2)(b) of the Act, the Landlord may deduct \$50.00 from the security deposit paid by the Tenant on August 31, 2005.

Conclusion

I hereby grant the Landlord an Order of Possession effective two days from 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.

The Landlord may deduct the amount of \$50.00 from the security deposit.

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: September 1, 2009