



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

C, FF

Introduction

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause 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 posted on the door to the rental unit on November 05, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

Due to a scheduling error at the Residential Tenancy Branch the hearing did not proceed on November 27, 2009 as scheduled. Teleconference records indicate that the Landlord attended the hearing on November 27, 2009 but the Tenant did not. Residential Tenancy Branch personnel contacted the Landlord and reconvened the hearing on this date. Residential Tenancy Branch personnel were unable to contact the Tenant, however the Landlord stated that she posted an amended copy of a Notice of Hearing, which was provided to her by the Residential Tenancy Branch, on the Tenant's door on November 27, 2009.

I find that the Tenant was properly served notice of the hearing on November 27, 2009; that she did not attend at that hearing; and that I can proceed with this reconvened hearing in the absence of the Tenant.

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 this tenancy began on July 28, 1999 and that the Tenant is still occupying the rental unit.

The Agent for the Landlord stated that she posted a One Month Notice to End Tenancy for Cause on the front door of the rental unit on September 01, 2009 at 1434 hours. The Notice declared that if the Tenant did not file an Application for Dispute Resolution to dispute the Notice within ten days of receiving it, she is presumed to have accepted the Notice and she must vacate the rental unit by October 31, 2009.

There is no evidence to show that the Tenant filed an Application for Dispute Resolution in which she disputed the Notice to End Tenancy.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was served with a One Month Notice to End Tenancy for Cause, pursuant to section 47 of the Act, which required her to vacate the rental unit on, or before, October 31, 2009.

Section 47(5) of the Act stipulates that a tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the Act and that the tenant 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 October 31, 2009, pursuant to section 47(5) of the Act.

As the Tenant did not vacate the rental unit on October 31, 2009, I find that the Landlord is entitled to an Order of Possession.

As the Landlord's Application for Dispute Resolution has merit, I find that the Landlord is entitled to \$50.00 in compensation for the filing fee paid by the Landlord for this application.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. 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 also grant the Landlord a monetary Order in the amount of \$50.00, as compensation for the filing fee paid by the Landlord for this application. In the event that the Tenant does not voluntarily 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: December 01, 2009.

Dispute Resolution Officer