



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC, 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 for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing and were given the opportunity to present relevant evidence.

Issue(s) to be Decided

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

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on October 01, 2009.

The Agent for the Landlord stated that he personally served the Tenant with a One Month Notice to End Tenancy for Cause on October 29, 2009. The Tenant stated that the Agent for the Landlord did not personally serve her with the Notice to End Tenancy but she acknowledges finding it on the floor outside her rental unit on October 29, 2009.

The One Month Notice to End Tenancy for Cause declared that the Tenant must vacate the rental unit by November 29, 2009.

The Notice to End Tenancy for Cause informed the Tenant that she must move out of the rental unit by the date set out on the front page of the Notice if she does not dispute the Notice within ten days of receiving it. The Tenant declared that she did on December 07, 2009 she attempted to file an Application for Dispute Resolution, at which time she was advised that she had not filed the Application for Dispute Resolution within the appropriate time frame.

The Agent for the Landlord stated that the Landlord is seeking an Order of Possession for December 31, 2009.

Analysis

Based on the Tenant's acknowledgement that she came into possession of the Notice to End Tenancy on October 29, 2009, I find that she was served with this document on that date, pursuant to section 71(2)(b) of the *Act*. This Notice required her to vacate the rental unit prior on, or before, November 29, 2009.

Section 47(5) 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 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 Tenants accepted that the tenancy was ending, pursuant to section 47(5) of the *Act*.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on December 31, 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's Application for Dispute Resolution has merit and I therefore find that the Landlord is entitled to recover the fee for filing this Application from the Tenant.

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: December 16, 2009.

Dispute Resolution Officer