



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC

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.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were posted on the door of the rental unit on January 12, 2010 and were personally served by a bailiff on January 13, 2010. The Landlord submitted an Affidavit of Service in which a bailiff declared that he attended at the rental unit on January 13, 2009; that Tenant identified himself by speaking through his front door but did not open the door; and that the Tenant advised the Bailiff to leave the documents outside his front door. These documents are deemed to have been served in accordance with sections 71(c) and 89(d) and of the *Residential Tenancy Act (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 on the basis of the Notice to End Tenancy that was served on the Tenant, pursuant to sections 47 and 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted a tenancy agreement that shows this tenancy began on February 01, 2003.

The Agent for the Landlord stated that the Tenant was served with a One Month Notice to End Tenancy for Cause, via registered mail, on December 22, 2009; and that the Notice to End Tenancy directed the Tenant to vacate the rental unit prior to January 31, 2010 at 1300 hours. The Landlord submitted a copy of a Canada Post receipt that corroborates that mail was sent to the Tenant on December 22, 2009.

The Agent for the Landlord stated that he does not believe that the Tenant has disputed the Notice to End Tenancy that is the subject of this hearing.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was properly served with a One Month Notice to End Tenancy for Cause, which has an effective date of January 31, 2010.

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 tenants 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 for Cause that is the subject of this dispute, I find that the Tenant accepted that the tenancy was ending on January 31, 2010, pursuant to section 47(5) of the *Act*. I therefore find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective on January 31, 2010. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, 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: January 26, 2010.

Dispute Resolution Officer