

DECISION

Dispute Codes: OPL FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a two-month Notice to End Tenancy for landlord use served on October 30, 2009. The landlord also sought to recover the filing fee for this proceeding from the tenant.

Despite having been served with the Notice of Hearing served by registered mail sent on January 20, 2010, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on October 1, 2004. Rent is \$600 per month and the landlord holds a security deposit of \$300 paid on or about October 1, 2004.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served in person on October 30, 2009 and set an end of tenancy date of December 31, 2009. The notice was served as the landlord has need of the rental unit to house a manager who will be looking after her other rental properties in the area.

The landlord stated that, at the time of the hearing, the tenant had still not moved out, necessitating the request for an Order of Possession.

Analysis

Section 49(8) and (9) provide that a tenant receiving a Notice to End Tenancy for landlord use may apply for dispute resolution within 15 days of receiving the notice to contest it. If the tenant does not make application, the tenant is conclusively presumed to have accepted that the tenancy ends on the date set by the notice.

In this instance, I find that the tenant has not made application to contest the notice, and has been over holding the rental unit since December 31, 2009.

Therefore, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenant.

I further find that the landlord is entitled to recover the filing fee for this proceeding from the tenant and I hereby authorize and order that she may do so by retaining \$50 from the tenant's security deposit.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, effective two days from service of it on the tenant, and enforceable through the Supreme Court of British Columbia.

The landlord is authorized to retain \$50 from the tenant's security deposit in recovery of the filing fee for this proceeding.

March 2, 2010