

DECISION

Dispute Codes OPB

Introduction

This matter dealt with an application by the Landlord for an Order of Possession for breach of an agreement with the Landlord.

The Landlord said he served the Tenant in person on or about February 25, 2010 with a copy of the Application and Notice of Hearing. Based on the Landlord's evidence, I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on December 1, 2008. The Landlord said he served the Tenant with a typed Notice to End Tenancy on November 26, 2009. The Landlord said that although the Notice was not on the Residential Tenancy Branch Form, the Tenant said he would move at the end of December 2009 but failed to do so. The Landlord also claimed that the Tenant told him that he would move out at the end of January and at the end of February 2010 but he did not do so. Consequently the Landlord argued that the Tenant was in breach of his agreement to move out.

The Landlord claimed that he has received complaints from the Strata that there are a number of unpaid fines by the Tenant for repeated by-law violations. The Landlord also claimed that he has received complaints from at least one other occupant of the rental property that the Tenant has significantly interfered with their ability to use and enjoy their residence.

Analysis

Section 55(2)(d) of the Act says that a Landlord may apply for an Order of Possession if the landlord and tenant have agreed *in writing* that the tenancy is ended. I find that there is no evidence of a written agreement to end the tenancy and as a result, the Landlord's application is dismissed.

Conclusion

The Landlord's application is dismissed. 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: March 11, 2010.

Dispute Resolution Officer