

DECISION

Dispute Codes OPL, FF

Introduction

This hearing was convened on this day by way of conference call to deal with the landlord's application for an Order of Possession for landlord's use, and to recover the filing fee from the tenant for the cost of this application.

Despite being served personally on March 17, 2010 with the Landlord's Application for Dispute Resolution and notice of hearing documents, the tenant did not attend the hearing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of the property?

Background and Evidence

This tenancy began sometime in 2004. Rent is presently \$420.00 per month, payable on the 1st of each month, and there are no rental arrears. At the outset of the tenancy, the tenant paid a security deposit in the amount of \$175.00. The tenancy agreement was originally a fixed term tenancy for a period of one year, and then reverted to a month-to-month tenancy.

On February 28, 2010, the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property, a copy of which was provided as evidence in advance of the hearing. The said notice states that the rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse. The landlord testified that his son will soon be finished school, and the son and his grandparents will be occupying the unit, which is why the notice to end tenancy was issued. The landlord also testified that at the time of serving the notice to end tenancy, the tenant indicated that he would not be moving out. Further, the evidence of the landlord was that the tenant was provided with free rent for the month of April, 2010, in accordance with the *Act*.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for landlord's use 2 months before the date of the end of the tenancy written on the notice. The tenant has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I also accept the landlord's evidence that the tenant stated that he would not move, and therefore, the landlord had a right to file for dispute resolution, and is therefore entitled to recovery of the filing fee for the cost of this application.

Conclusion

Based on the above facts I find that the landlord is entitled to an Order of Possession. The tenant must be served with the Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I grant the landlord an order under section 67 for the \$50.00 cost of this application. This order may be filed in the 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: April 30, 2010.

Dispute Resolution Officer