

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, seeking to end the tenancy based on a one month Notice to End Tenancy issued for cause and receive an order of possession, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

At the outset of the hearing the Tenant requested an adjournment. She explained she had been trying to get a legal advocate for help with this dispute, however, she was unable to do this. I note the Tenant was served with Notice of Hearing and Application for Dispute Resolution on May 14, 2010, and had more than six weeks to receive help for the hearing today, June 30, 2010. I also note that today is the effective date of the one month Notice to End Tenancy and the Tenant did not file an Application for Dispute Resolution to dispute the Notice. Therefore, I declined the Tenant's request for an adjournment as I found she had insufficient evidence to show she had been diligent in attempting to have a legal advocate's assistance at the hearing and due to the prejudice the Landlords to have a further delay.

Issues(s) to be Decided

Are the Landlords entitled to end the tenancy and obtain an order of possession for the rental unit?

Background and Evidence

The Landlords have given the Tenant a one month Notice to End Tenancy for cause, and allege interference or unreasonable disturbances to other occupants, and extraordinary damage to the rental unit (the "Notice").

The Landlords attempted to serve the Tenant with the Notice on May 1, 2010. The Tenant states this was actually on May 3, 2010. However, the parties both agree the Tenant would not accept the Notice the first time it was given to her. Nonetheless, the Landlords feel she was served on May 1, 2010.

On May 11, 2010, the Tenant requested the Landlords provide her with a copy of the Notice and it was given to her. Based on the testimony of both parties, I find the Tenant was served with the Notice on May 11, 2010, in accordance with the Act.

I also note that the Notice indicates the effective date of the end of the tenancy as being "June 31, 2010", a date which does not exist, however, under the Act the Notice corrects to June 30, 2010.

The Landlords provided evidence in support of the Notice, including letters from other residents at the rental property. The letters are consistent in that there have been several noise complaints about the Tenant.

The Tenant testified that she did not think the noise complaints were accurate. She further testified she did not dispute the Notice as she was "ignorant" of what to do. The Tenant blamed her failure to file to dispute the Notice on information she received from the branch.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the Tenant has failed to file an Application for Dispute Resolution to dispute the Notice within the 10 days required under the Act, and therefore, she is conclusively presumed under section 47(5) to have accepted the tenancy ended on the effective date of the Notice.

The Notice sets out that the Tenant had the right to dispute the Notice. Furthermore, the information officers at the branch do not have the discretion to refuse an Application for Dispute Resolution.

Therefore, the Landlords are entitled to the relief sought and to obtain an order of possession for the rental unit. The appearing Landlord was satisfied that the order be made **effective for 1:00 p.m. July 16, 2010**, and I grant and issue an order in those terms. The order may be filed in the Supreme Court of British Columbia and enforced as an order of that court.

As the Landlords have been successful in this Application, they may keep **\$50.00** from the Tenant's security deposit to recover the cost of the filing fee for the Application.

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: June 30, 2010.

Dispute Resolution Officer