



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, to keep the Tenant's security deposit and to recover the filing fee for this proceeding. The Landlord's agent said the Tenant was served in person on June 23, 2010 with a copy of the Application and Notice of Hearing (the "hearing package"). Based on the evidence of the Landlord's agent, I find that the Tenant was served with the Landlord's hearing package 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?
2. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

The Landlord's application states that the Tenant was served in person on June 7, 2010 with a One Month Notice to End Tenancy for Cause dated May 1, 2010 however, the Landlord's agent claimed that the Tenant was served with this document on or about May 1, 2010. The grounds listed on the Notice are as follows:

- The Tenant is repeatedly late paying rent;
- The Tenant has caused extraordinary damage to the rental unit or property; and
- The Tenant has not done required repairs of damage to the rental unit.

The Landlord's agent also claimed that the name of the Landlord that appears on the One Month Notice dated May 1, 2010 is the current operating name used by the Landlord and that the name that appears on the Landlord's application is the former operating name of the Landlord.

Analysis

Section 47(4) of the Act says that a Tenant who receives a One Month Notice to End Tenancy for Cause must apply for dispute resolution to cancel the Notice within 10

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days. If a Tenant does not do so, then the Tenant will be deemed under s. 47(5) of the Act to have accepted that the tenancy will end on the effective date of the Notice and they must vacate the rental unit on that date. The Tenant did not apply to cancel the One Month Notice to End Tenancy for Cause. Although the One Month Notice states that the effective date is May, 31, 2010, the earliest date that Notice could take effect would be June 30, 2010 and accordingly the Notice is amended pursuant to s. 53(2) of the Act. Consequently, I find that the Landlord is entitled to an Order of Possession pursuant to s. 55(2)(b) of the Act to take effect 2 days after service of it on the Tenant.

As the Landlord's application did not include a claim for compensation for damages to the rental unit and given also that the Landlord did not file any evidence with respect to damages to the rental unit, the Landlord's application to keep the Tenant's security deposit is dismissed with leave to reapply.

As the Landlord has been successful in this matter, he is entitled to recover the \$50.00 filing fee for this proceeding from the Tenant and I order pursuant to s. 72 of the Act that he may deduct that amount from the Tenant's security deposit.

Conclusion

An Order of Possession to take effect 2 days after service of it on the Tenant has been issued to the Landlord. The Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

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: July 29, 2010.

Dispute Resolution Officer