



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC, MNDC, CNC and FF

Introduction

This hearing was scheduled in response to cross applications.

On August 25, 2010 the Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession for Cause, for a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing the Application for Dispute Resolution. At the hearing the Landlord withdrew her application for a monetary Order for money owed or compensation for damage or loss.

On August 13, 2010 the Tenant filed an Application for Dispute Resolution in which the Tenant applied for to set aside an Order of Possession for Cause. The Tenant did not attend the hearing in support of her Application for Dispute Resolution. I therefore dismiss her Application for Dispute Resolution without leave to reapply.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the rental unit, on August 25, 2010. The Landlord cited a tracking number to corroborate this statement. In the absence of evidence to the contrary, I accept the Landlord's testimony that the Tenant was served copies of these documents in accordance with section 89 of the *Act*. The hearing proceeded in the absence of the Tenant.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause and to recover the fee for filing this Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord stated that this tenancy began on September 01, 2007 and that the Tenant is currently required to pay monthly rent of \$620.00.

The Landlord stated that she personally served the Tenant with a One Month Notice to End Tenancy for Cause at the rental unit on July 29, 2010. The Notice informed the Tenant that if she did not file an Application for Dispute Resolution to dispute the Notice within ten days of receiving it, she is presumed to have accepted that the tenancy will end and that she must vacate the rental unit by September 01, 2010.

The Witness stated that he observed the Landlord serve the Tenant with a One Month Notice to End Tenancy and that he signed the copy of the Notice to End Tenancy that was served to the Tenant. He stated that he cannot recall the precise date that the Notice was served to the Tenant but he is certain that it was prior to August 01, 2010.

In her Application for Dispute Resolution the Tenant declared that she was served the Notice to End Tenancy on August 07, 2010.

Analysis

I find that the Tenant was personally served with a One Month Notice to End Tenancy for Cause, which has a declared effective date of September 01, 2010, on July 29, 2010, pursuant to section 47 of the *Act*. I find that the Landlord's testimony regarding the date of service is more compelling than the Tenant's written declaration that it was served on August 07, 2010, as the Landlord's testimony was corroborated by a witness and the Tenant did not attend to affirm her written declaration.

Section 47(5) of the *Act* stipulates that a tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As I have determined that the Tenant did not file an Application for Dispute Resolution until August 13, 2010, which is fifteen days after it was served upon her, I find that the Tenant accepted that the tenancy was ending on September 01, 2010, pursuant to section 47(5) of the *Act*. On this basis, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I also grant the Landlord a monetary Order in the amount of \$50.00, as compensation for the filing fee paid by the Landlord for this application. In the event that the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with

the Province of British Columbia 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: October 01, 2010.

Dispute Resolution Officer