



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPC, FF

Introduction

The hearing was convened in response to the an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord stated that he posted copies of the Application for Dispute Resolution and Notice of Hearing on the door of the rental unit on October 02, 2010. The Witness for the Landlord stated that he witnessed service of these documents on October 02, 2010. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

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 the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

Background and Evidence

The Landlord stated that this tenancy began on April 15, 2010. The Landlord stated that he posted a One Month Notice to End Tenancy for Cause on the door of the rental unit on September 13, 2010. The Witness for the Landlord stated that he witnessed service of this document on September 13, 2010.

The One Month Notice to End Tenancy for Cause declared that the Landlord was ending the tenancy because the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord. The Notice informed the Tenants that they must vacate the rental unit by October 31, 2010.

The Notice to End Tenancy for Cause declared that the Tenants must move out of the rental unit by the date set out on the front page of the Notice if they do not dispute the

Notice within ten days of receiving it. I have no evidence that the Tenants disputed the Notice to End Tenancy.

Analysis

In the absence of evidence to the contrary, I find that a One Month Notice to End Tenancy for Cause, served pursuant to section 47 of the *Act*, was posted at the rental unit on September 13, 2010. I find that the Notice to End Tenancy directed the Tenant to vacate the rental unit by October 31, 2010.

Section 47(5) of the *Act* stipulates that tenants are 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 there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant has accepted that the tenancy will end on October 31, 2010, pursuant to section 47(5) of the *Act*.

Although the Landlord was advised during the hearing that I believed he was entitled to recover the cost of filing the Application for Dispute Resolution, I have now reconsidered that decision. Upon further reflection I determined that the Landlord is not entitled to compensation for the cost of filing this Application for Dispute Resolution. I find that there is insufficient evidence to establish that the Tenant will not vacate the rental unit by October 31, 2010 and I cannot, therefore, conclude that this dispute resolution proceeding was necessary.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on October 31, 2010. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, 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 22, 2010.

Dispute Resolution Officer