

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 1 month notice to end tenancy for cause.

Both parties attended by conference call and gave affirmed testimony.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

This tenancy began on November 23, 2009 on a fixed term tenancy until May 31, 2010, then thereafter on a month to month basis. The monthly rent was \$900.00 payable on the 1st of each month. A security deposit of \$450.00 was paid at the beginning of tenancy. The Landlord states that the 1 month notice to end tenancy for cause was served by placing a copy in the Tenant's mail box on August 30, 2010 and also by sliding a copy under the Tenant's door. The Tenant denies ever receiving these copies. The Landlord stated that she had a witness when she placed the copy in the mail box. The witness, E.L. recalls witnessing the service of documents in the mail box, but does not recall the exact date. The Tenant disputes that the witness did not work at the building during the time and as such could not have witnessed the service. The witness states that he works for the Landlord as and when needed and routinely visits different work sites. The Landlord also states that upon receiving the notice that the Tenant came to her to state that there would not be any future issues regarding the tenancy. The Landlord has stated that the hearing documents were served by registered mail on

both the Tenant and adult female occupant named in the tenancy agreement and have provided the tracking codes to both registered mail packages. The Tenant has not filed an application for dispute resolution concerning the Landlord's 1 month notice to end tenancy.

Analysis

Based upon the evidence provided by the Landlord and the Landlord's witness, I am satisfied that the Tenant was properly served with the 1 month notice to end tenancy for cause. I find that the Tenant did not file an application for dispute resolution upon receiving the notice.

Section 47 (4) of the Act states, A Tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the Tenant receives the notice.

Section 47 (5) of the Act states, If a Tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the Tenant (5) (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit by that date.

I grant the Landlord's application for 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.

Since the Landlord has been successful in her claim, she is entitled to the recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession.

The Landlord is granted a monetary order for \$50.00.

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: November 16, 2010.

Dispute Resolution Officer