



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Cause and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenants by posting the notice on their door on February 18th, 2011. The tenants did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a basement suite in a single detached home. Pursuant to a verbal agreement, the month to month tenancy started in September 2009. The monthly rent of \$550.00 was payable on the first of each month. The tenants did not pay a security deposit.

In her documentary submissions, the landlord provided medical evidence asserting that the landlord suffers from a serious health condition. The landlord also submitted a written chronology of events detailing the tenants' threatening behaviour, wherein they told the landlord that they will not move out in spite of being served with a 1 Month Notice to End Tenancy in person on January 4th, 2011. The landlord stated that the tenants have threatened to burn the house down, kill her and her dog, and that the police have been called as she fears for her safety.

The landlord testified that on their last attendance to the rental unit on February 28th, 2011, the police officers told the landlord that the tenants were moving out, however she was not provided with a moving date. The landlord made an oral request for an order of possession.

Analysis

I accept the landlord's undisputed testimony that she served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 47(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy with cause does not make an application for dispute resolution within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenants in this matter have not filed an application for dispute resolution.

For the reasons stated above I find that the landlord is entitled to an Order of Possession and to recover her filing fee.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I award the landlord a monetary order for the sum of \$50.00. This Order may be registered in the 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: March 01, 2011.

Residential Tenancy Branch