

Decision

Dispute Codes: OPB, FF

Introduction

This hearing dealt with the landlord's application for an order of possession / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony.

Despite mailing of the application for dispute resolution and notice of hearing to the tenant by way of registered mail, the tenant did not appear. Included in the landlord's evidence is the Canada Post tracking number for the registered mailing.

Issues to be decided

- Whether the landlord is entitled to either or both of the above under the Act

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on February 1, 2011. Monthly rent of \$500.00 is due and payable on the first day of each month, and a security deposit of \$250.00 was collected.

Arising from a number of concerns about the tenancy, the landlord issued a 1 month notice to end tenancy for cause dated February 6, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant filed an application to dispute the notice but later abandoned his application. The landlord testified that the tenant presently continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated February 6, 2011. The tenant did not dispute the notice by pursuing an application filed within 10 days following his receipt of the notice. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord is entitled to an order of possession.

The effective date shown on the landlord's notice is March 30, 2011. In this regard, section 53 of the Act speaks to **Incorrect effective dates automatically changed**. Pursuant to this statutory provision, the date of March 30, 2011 is changed to March 31, 2011.

As the landlord has succeeded in his application, I find he is entitled to recover the \$50.00 filing fee.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not earlier than **1:00 p.m., Thursday, March 31, 2011**. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$50.00**. Should it be necessary, this order may be served on the tenant, filed 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*.

DATE: March 7, 2011

Residential Tenancy Branch