



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, FF

Introduction

This is the Landlord's application for an Order of Possession for Cause and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that he served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on February 25, 2011.

I accept the Landlord's agent's affirmed testimony that he personally served the Tenant with the Notice of Hearing Package on October 21, 2010. In spite of being served with the documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

Issue(s) to be Decided

(1) Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord's agent testified that another agent of the Landlord's personally served the Tenant with the Notice to End Tenancy issued January 20, 2011, at the rental unit on January 20, 2011. The Landlord's agent stated that he was present and witnessed the Tenant being served.

The Landlord has not been served with any Application from the Tenant seeking to cancel the Notice to End Tenancy.

The Landlord's agent asked for an Order of Possession effective March 18, 2011, in order to allow the Tenant more time to find suitable alternate accommodation.

Analysis

I accept the Landlord's agent's testimony that the Tenant was duly served with the Notice to End Tenancy. The Tenant did not dispute the Notice to End Tenancy within 10 days of being served with the Notice to End Tenancy. Pursuant to Section 47(5) of the Act, the Tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was February 28, 2010. The Tenant is overholding and the Landlord is entitled to an immediate Order of Possession. The Landlord's agent asked for an Order to be effective March 18, 2011, and I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., March 18, 2011.**

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee of \$50.00 from the Tenant.

Conclusion

I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m. March 18, 2011.** This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$50.00** against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) 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 11, 2011.
