



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC

Introduction

The hearing was scheduled in response to an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me. The Tenants exited the hearing without notice two minutes prior to the conclusion of the hearing, after they had been advised that the Landlord was being granted an Order of Possession.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause, pursuant to section 55 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord and the Tenants agree they have a tenancy that requires the Tenants to pay monthly rent of \$750.00 on the first day of each month.

The Landlord and the male Tenant agree that the Landlord personally served the male Tenant with a One Month Notice to End Tenancy for Cause. The Landlord stated that the Notice was served on May 31, 2011 and that Tenant stated that he cannot recall when he received the Notice. The One Month Notice to End Tenancy for Cause indicated that the Landlord was ending the tenancy because the tenant is repeatedly late paying rent, the tenant or a person permitted on the property has seriously jeopardized the health safety or lawful interest of another occupant of the landlord, and the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.

The Notice to End Tenancy declares that the Tenants must vacate the rental unit by June 30, 2011. The Notice to End Tenancy for Cause declares 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.

The male Tenant stated that the Tenants did not file an Application for Dispute Resolution seeking to set aside the Notice to End Tenancy.

Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the male Tenant was personally served with a One Month Notice to End Tenancy for Cause, pursuant to section 47 of the Act, which declared that the Tenants must vacate the rental unit by June 30, 2011. As the male Tenant did not recall when he received the Notice, I accept the Landlord's statement that it was served to him on May 31, 2011.

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 Tenants filed an Application for Dispute Resolution in which they dispute the Notice to End Tenancy, I find that the Tenants accepted that the tenancy ended on June 30, 2011, pursuant to section 47(5) of the *Act*.

As the Tenants accepted that the tenancy ended on June 30, 2011 and they have not yet moved out of the rental unit, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenants. This Order may be served on the Tenants, 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: July 19, 2011.

Residential Tenancy Branch