



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for cause and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by posting the documents on the tenant's door on August 3, 2011. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began April 1, 2011. On June 24, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause.

The landlord testified that the tenant has and continues to not only put the landlord's property and other occupants at risk but continues to unreasonably disturb and adversely affected the quiet enjoyment, security, safety and physical well-being other tenants in the building.

The landlord stated that the fire department has had to attend the tenants unit twice and other tenants in the building are afraid that the tenant will cause a serious fire. The landlord also stated that the police have been called twice to attend and deal with issues related to the tenant.

The landlord stated that the tenant is very abusive to other tenants in the building and swears at and threatens tenants. The landlord stated that the tenant often sits at her open window and throws empty bottles out the window when she is finished drinking the contents.

The landlord stated that she had received 7 written complaints from tenants in the building and that numerous tenants have advised the landlord that they will give notice to move if the tenant does not leave as they are afraid of the tenant and afraid that the tenant may cause a fire.

The landlord in this application is seeking an order of possession effective 2 days after service upon the tenant.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for cause. The tenant did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

Section 47(4) of the *Act* states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant must apply for dispute resolution. If the tenant fails to file to dispute the notice, then under section 47(5)(a)(b) of the *Act* they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant. 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 find that the landlord is entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$50.00**.

If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) 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: August 31, 2011.

Residential Tenancy Branch