



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This matter dealt with an application by the Landlord for an Order of Possession. The Landlord's agent said he served the Tenants with the Application and Notice of Hearing (the "hearing packages") by delivering them in person the Tenant, J.G., on July 18 and 19, 2011. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing packages as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

During the hearing, the Landlord sought to amend his application by including a monetary claim for unpaid rent. RTB Rule of Procedure 2.5 provides that a party must serve the other parties to the dispute and the Residential Tenancy Branch with an amended copy of their application at least 7 days prior to the dispute resolution proceeding. As the Landlord has not served the Respondents or the Residential Tenancy Branch with an amended copy of his application, he may not do so at this late date but will have to file a separate application for that claim.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on March 7, 2010. The Landlord's agent said that on April 29, 2011 he served the Tenants in person with a One Month Notice to End Tenancy for Cause dated April 29, 2011. The Tenants applied to cancel that Notice and in dispute resolution proceedings held on June 3, 2011 their application was dismissed and the Notice upheld. In the Decision dated June 3, 2011, the Dispute Resolution Officer wrote, "the Tenants have paid rent for June, and the tenancy will end on June 30, 2011." The Landlord's agent said the Tenants did not vacate the rental unit on June 30, 2011 and as a result, he now seeks an Order of Possession.

Analysis

Section 55(1) of the Act says that if a Tenant's application to dispute a Notice to End Tenancy is dismissed, a Landlord may make an oral request for an Order of Possession. I find that the Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated April 29, 2011 was dismissed and as a result, I find that the Landlord is entitled to an Order of Possession.

Pursuant to s. 47(2) of the Act, the One Month Notice to End Tenancy would have taken effect on May 31, 2011, however the Landlord agreed to extend the effective date to June 30, 2011. As the effective date of the Notice has now expired, the Order of Possession will take effect 2 days after service of it on the Tenants. As the Landlord has been successful in this matter, he is entitled pursuant to s. 72(1) of the Act to recover from the Tenants the \$50.00 filing fee he paid for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants and a Monetary Order in the amount of **\$50.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenants; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 16, 2011.

Residential Tenancy Branch