



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This matter dealt with an application by the Landlord to obtain an Order of Possession for Cause and to recover the filing fee for this proceeding.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Is the Landlord entitled to an Order of Possession?
3. Is the Landlord entitled to recover the filing fee for this proceeding?

Background and Evidence

This tenancy started on October 1, 2009 as a 6 month tenancy and then renewed as a month to month tenancy. Rent is \$1,650.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$825.00 prior to moving in on October 1, 2009.

The Landlord said that the Tenant was serviced with a 1 month Notice to End Tenancy for Cause dated June 7, 2011 with an effective vacancy date of July 8, 2011. The reasons given on page two of the Notice were repeatedly late with payments and breach of the tenancy agreement. The Landlord continued to say the Tenant made an application to Cancel the Notice and a hearing was held on July 13, 2011. The Tenant did not attend the hearing so consequently the Tenant's application was dismissed without leave to reapply and the Notice to End Tenancy was in effect. During the July 13, 2011 hearing, which the Tenant did not attend, the Landlord did not ask for an Order of Possession and therefore no Order was issued. The Landlord said he is now requesting an Order of Possession as the Tenant is living in the unit and the effective vacancy date on the 1 Month Notice to End Tenancy for Cause is July 8, 2011, which has past. The Landlord said the Tenant is living in the rental unit and he is requesting an Order of Possession with an effective date as soon as possible.

The Tenant said she phoned into the conference call of July 13, 2011, but was unable to speak because she was sick therefore she no one knew that she was on the conference call. The Tenant said when she found out that her application was dismissed she made an application for a review to allow her a second hearing to Cancel the Notice to End

Tenancy for Cause dated June 7, 2011. The Tenant said the request for a new hearing was denied.

The Tenant continued to say that she has only been late with her rent payments a few times and it is because of bank policy that has held up her rent payments.

The Landlord say the Notice to End Tenancy was issued because the Tenant was late with her rent payments in January, May, June, and July of 2011. The Landlord continued to say that the Tenant also breached her tenancy agreement by having dogs in the rental unit. the Landlord said cause 18 of the tenancy agreement indicates no pets are allowed in the rental unit.

The Tenant closed her remarks by saying that she is a good tenant and that she pays her rent on time and she is allowed to have dogs in her rental unit. The Tenant said she disagrees with the Residential Tenancy Branch not to allow her a new hearing to dispute the 1 Month Notice to End Tenancy for Cause dated June 7, 2011, so she is going to apply to the Supreme Court of British Columbia for a review of the decision.

Analysis

Section 47 (1) of the Act says a landlord may end a tenancy for (b) repeatedly late payments or (h)(1) has failed to comply with a material term of the tenancy agreement.

Section 47(4) of the Act says a tenant may dispute the Notice within 10 days after the tenant receives the notice.

Section 47 (5) of the Act says the tenant may dispute the Notice , but if they do not dispute the Notice the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

I find that the Tenant did apply to cancel the notice, but her application was dismissed because the Tenant did not dispute the Notice to End Tenancy as the Tenant did not appear at the hearing. The Tenant said she did attend the hearing but she did not provide any evidence that she did and the Tenant said she could not establish grounds during her review hearing to be granted a new hearing. Consequently, I find the Notice to End Tenancy for Cause dated June 7, 2011 is valid and pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover the filing fee of \$50.00 for this proceeding. I order the Landlord to deduct the \$50.00 filing fee for this proceeding from the Tenant's security deposit.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme 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*.

Residential Tenancy Branch