

Decision

Dispute Codes: OPC, FF

Introduction

This hearing was convened in response to an application by the landlord for an order of possession / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. Despite mailing of the application for dispute resolution and notice of hearing (the “hearing package”) by registered mail, the tenant did not appear. The landlord’s evidence includes the Canada Post tracking numbers for the registered mail. Ultimately, the hearing package was returned to the landlord after the tenant failed to pick it up from the postal facility.

Issues to be decided

- Whether the landlord is entitled to the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the term of tenancy was from December 15, 2010 to December 15, 2011. Monthly rent is \$800.00 and a security deposit of \$400.00 was collected. Rent has been paid jointly by a provincial ministry and a federal program.

Arising from various concerns about the tenancy, the landlord issued a 1 month notice to end tenancy for cause dated April 5, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

The tenant filed an application to dispute the notice but did not attend the hearing on May 6, 2011 which was scheduled in response to her application. While the landlord attended the hearing, she did not make an oral request for an order of possession.

Subsequently, the landlord filed an application for dispute resolution, seeking an order of possession arising from her issuance of the 1 month notice. The tenant did not appear at that hearing scheduled on July 19, 2011. However, in the absence of a copy

of the 1 month notice in evidence, the dispute resolution officer dismissed the landlord's application with leave to reapply. Following from this, the present hearing was scheduled after the landlord's further application.

The landlord testified that the tenant appears to have vacated the unit, however, she is still seen in the vicinity of the building. The landlord testified that she anticipates the unit will be in need of considerable cleaning and repairs.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated April 5, 2011. The tenant filed an application to dispute the notice, however, she did not attend the hearing scheduled in response to her application. While the tenant appears to have vacated the unit, she has not presently provided the landlord with a forwarding address. Following from all of the above, I find that the landlord has established entitlement to an order of possession.

As the landlord has succeeded in her application, I find that she has established entitlement to recovery of the filing fee. I hereby ORDER that the landlord may withhold \$50.00 from the security deposit for this purpose.

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca The particular attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**, as well as section 39 of the Act which speaks to **Landlord may retain deposits if forwarding address not provided**.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in 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*.

DATE: August 24, 2011

Residential Tenancy Branch