



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice to End Tenancy valid?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began in 2008. Rent in the amount of \$575.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$275.00. On June 8, 2011, the Landlord personally served the Tenant with a One Month Notice to End Tenancy for Cause (the “Notice”) with an effective date of July 31, 2011. The reasons for the cause are as follows:

1. The Tenant or a person permitted on the property by the tenant has:
 - a. Significantly interfered with or unreasonably disturbed another occupant or the landlord;

- b. Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- 2. The Tenant has engaged in illegal activity that has, or is likely to:
 - a. Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
 - b. Jeopardize a lawful right or interest of another occupant or the landlord.

The Landlord states that the Tenants have been smoking substances in the unit and this has or will affect the health of the children who have asthma and are living in the upper unit of the building. Further, the Landlord states that numerous persons are going in and out of the unit carrying suspicious articles such as stoves and fridges. The Landlord states that the Tenant has been charged with possession of stolen property. The Tenant states that while it is true that charges have been laid, the charges will be addressed in court. The Tenant denies that anyone is smoking in the unit and that the upper tenant smokes in the unit herself. The Tenant states that she has consistently paid the rent and does not understand the Landlord's actions in evicting her. The Tenant has not moved out of the unit and has not filed an application to dispute the Notice.

Analysis

Section 47 of the Act requires that upon receipt of a Notice to End Tenancy for cause the tenant must, within ten days, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not make an application, 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.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for cause and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not moved out of the unit. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. The Landlord is also

entitled to recovery of the filing fee and I direct the Landlord to deduct this amount from the security deposit.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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*.

Dated: October 17, 2011.

Residential Tenancy Branch