



Dispute Resolution Services

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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 in person. 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 6 month fixed term tenancy began February 9, 2011 with monthly rent of \$359.00, the tenant did not pay a security deposit. On September 26, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause; the tenant has not filed to dispute this notice.

The tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord.
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord testified that during the time of this tenancy that the tenant has had an excessive number of guests coming and going from the rental unit all throughout the night, plays very loud music all night and that these unreasonably disturbances have adversely affected the peace and quiet enjoyment of other tenants in the building.

Security logs submitted by the landlord into evidence verify guests of the tenants coming and going from the tenant's rental unit all through the night, bringing a dog into the rental property and at times appearing to be under the influence.

The landlord stated that the tenant and his guests have acted in a very intimidating and threatening manner towards other tenants in the building and that the tenants are now very afraid of the tenant and his guests. The landlord stated that they have had letters of complaint from some tenants but that most of them are now too afraid to put anything in writing for fear of retribution by the tenant and or his guests.

The landlord has issued the tenant warning letters June 14, July 19 and September 15, 2011 regarding the loud music and excessive traffic in and out of his rental unit and all of the disruption to other tenants in the building however the tenant has not taken any steps to correct the problems.

As the tenant still occupies the rental unit the landlord has requested an order of possession effective 2 days after service upon the tenant.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to an order of possession for cause.

Under s. 90 of the Act, the tenant is deemed to have received the Notice to End Tenancy on the day it is personally served, or on September 26, 2011. Consequently, the tenant would have had to apply to dispute that amount no later than October 6, 2011. Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

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(s) and all occupants. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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

If the amount is not paid by the tenant(s), 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: November 16, 2011.

Residential Tenancy Branch