



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 and to recover the filing fee. The landlord's agent participated in the conference call hearing but the tenant(s) did not. The landlord's agent presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail on December 1, 2011. I found that the tenants 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. The landlords' agent gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to the filing fee?

Background and Evidence

The tenancy began on or about November 1, 2001. Rent in the amount of \$550.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$225.00. The tenant was issued a One Month Notice to End Tenancy for Cause on November 10, 2011 with an effective date of December 31, 2011. The landlord issued the notice after receiving several complaints about excessive noise coming from the subject suite. The subject tenant had unauthorized dogs that would bark throughout the night. The landlords agent also supplied documentary evidence that the along with noise complaints there were complaints about smell coming from the subject unit.

Analysis

I accept the landlord's undisputed testimony and am satisfied that the landlord did have cause to serve the tenant Notice. I find that the tenant was served with a notice to end tenancy for cause. The tenant did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the 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.

The landlord's agent is also seeking the recovery of the filing fee. As this application is on a pre-emptive basis the landlord is not entitled to it and I dismiss that portion of their application.

The Notice to End Tenancy for Cause dated November 10, 2011 remains in full effect and force.

Conclusion

The landlord is granted an order of possession.

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: December 14, 2011.

Residential Tenancy Branch