



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, FF

Introduction

The hearing was scheduled in response to the an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant ,via registered mail, at the service address noted on the Application, on November 10, 2011. Canada Post documentation was submitted that corroborates this statement. In the absence of evidence to the contrary, I accept that the Tenant was served with these documents in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause and to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

Background and Evidence

The Landlord stated that this tenancy began on September 01, 2011 and that the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause, via registered mail, on November 04, 2011. Canada Post documentation was submitted that corroborates that documents were mailed on November 04, 2011.

The One Month Notice to End Tenancy for Cause indicates that the Landlord was ending the tenancy because the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord and the Tenant was repeatedly late paying rent. The Notice declared that the Tenant must vacate the rental unit by December 31, 2011.

The Notice to End Tenancy for Cause informed the Tenants that they must move out of the rental unit by the date set out on the front page of the Notice if they do not dispute

the Notice within ten days of receiving it. I have no evidence that the Tenants disputed the Notice to End Tenancy.

Analysis

On the basis of the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that a One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*, was mailed to the Tenant, via registered mail, on November 04, 2011. I find that this Notice required him to vacate the rental unit prior on, or before, December 31, 2011.

Section 47(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenant must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant accepted that the tenancy is ending on December 31, 2011, pursuant to section 47(5) of the *Act*. I therefore find that the Landlord is entitled to an Order of Possession.

I decline to award the Landlord compensation for the cost of filing this Application for Dispute Resolution, as I find there is insufficient evidence to establish that the Tenant will not vacate the rental unit at the end of December, in which case this hearing would not have been necessary.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on December 31, 2011. This Order may be served on the Tenant, filed with 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: November 23, 2011.

Residential Tenancy Branch