



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, OPB, FF

Introduction

This hearing was scheduled in response to an application by the landlord for an order of possession / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 16, 2010. Monthly rent at the outset of tenancy was \$795.00, and rent is payable in advance on the first day of each month. A security deposit of \$397.50 was collected.

Arising from various concerns the landlord issued a 1 month notice to end tenancy for cause dated November 30, 2011. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is December 31, 2011. 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

Documentary evidence in support of the 1 month notice includes breach letter(s) and incident report(s). The landlord's agent testified that the tenant continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 1 month notice to end tenancy for cause dated November 30, 2011. As the tenant did not apply to dispute the notice within 10 days of receiving the notice, she is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

As the landlord has succeeded in this application, I find that the landlord has also established entitlement to recovery of the filing fee. I order that the landlord may recover this fee by way of withholding \$50.00 from the security deposit at the end of tenancy.

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.

I hereby order that the landlord may withhold \$50.00 from the security deposit in order to recover the filing fee.

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: January 17, 2012.

Residential Tenancy Branch