



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent. The Landlord said the Tenant has paid the outstanding rent and therefore he withdrew his application for unpaid rent as well as his application to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") in person on January 7, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This month-to-month tenancy started on April 1, 2011. Rent is \$500.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$250.00 at the beginning of the tenancy.

The Landlord said he served the Tenant in person on December 8, 2011 with a One Month Notice to End Tenancy for Cause dated December 8, 2011 on which the following grounds were checked off:

- The Tenant is repeatedly late paying rent;
- The Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord said the Tenant paid her rent for January 2012 in full on January 14, 2012 and at that time he gave her a receipt on which she acknowledged that she would move out on January 31, 2012 (the effective date of the One Month Notice).

Analysis

Section 47(4) of the Act says that a Tenant who receives a One Month Notice to End Tenancy for Cause must apply to cancel that notice no later than 10 days after receiving it or else pursuant to s. 47(5) of the Act they are deemed to have accepted that the tenancy will end on the expiry of the One Month Notice period (or the effective date of the Notice) and they must vacate the rental unit at that time.

In the absence of any evidence from the Tenant to the contrary, I find that she was served in person on December 8, 2011 with a One Month Notice to End Tenancy for Cause dated December 8, 2011. Consequently, the Tenant would have had to apply for dispute resolution to cancel that Notice ***no later than December 18, 2011***. I find that the Tenant has not applied for dispute resolution to cancel the One Month Notice and as a result, I find that the Landlord is entitled pursuant to s. 55(2)(b) of the Act to an Order of Possession to take effect on January 31, 2012 at 1:00 p.m.

Conclusion

An Order of Possession to take effect on January 31, 2012 at 1:00 p.m. has been issued to the Landlord. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

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 18, 2012.

Residential Tenancy Branch