



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC and FF

Introduction

This hearing was convened on the landlord's application of January 11, 2012 for an Order of Possession pursuant to a one-month Notice to End Tenancy for cause dated November 29, 2011 and served by posting on the tenant's door. The cause cited was serious jeopardy of the health, safety or lawful right of another occupant or the landlord. The landlord also sought to recover the filing fee for this proceeding from the tenant. The

Despite having been served with the Notice of Hearing sent by registered mail on January 13, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on September 1, 2007. Rent was \$975 per month and the landlord holds a security deposit of \$487.50 paid on or about September 1, 2007.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of November 29, 2011 had been served after maintenance staff had reported that the rental unit was in an extreme state of filth with garbage and the tenant's belongings covering much of the floor area.

The landlord issued the tenant with a warning letter on November 17, 2011 noting that the maintenance workers could barely move in the suite and ordering that the rental unit be cleaned. The landlord also issued a 24-hour notice of inspection.

The landlord submitted a number of photographs taken during the inspection showing the rental unit in the same state. The landlord issued another 24-hour notice on November 24, 2011 and found no improvement during the inspection the following day. She stated that she attempted a further inspection in the first week of January 2012, but was unable to enter the unit as the door was blocked with materials on the floor.

The landlord served the Notice to End Tenancy on November 29, 2011, posting it on the tenant's door. As documents served by posting are deemed to be received three days later, the end date of December 31, 2011 is automatically corrected to January 31, 2012.

The landlord stated that she had invited the tenant to attend her office in December to attempt to resolve matters. When the tenants did not attend, she wrote to him on December 13, 2011 advising that the Notice to End Tenancy remained in effect.

Analysis

Section 47(5) and (6) of the *Act* provides that a tenant may make an application to dispute a Notice to End Tenancy for cause within 10 days of receipt of the notice; otherwise, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the rental unit by that date.

I find that the tenant has not made application to contest the Notice to End Tenancy and is, therefore, conclusively presumed to have accepted that the tenancy ended on the corrected end of tenancy date of January 31, 2012.

Therefore, I find that the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on January 31, 2012.

In addition, as authorized under section 72 of the *Act*, I find that the landlord may retain \$50 from the tenant's security deposit to recover the filing fee for this proceeding.

The landlord remains at liberty to make application for any damage or losses as may be ascertained at the conclusion of the tenancy.

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 27, 2012.

Residential Tenancy Branch