



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 the landlord's Application for Dispute Resolution for an Order for Possession based upon a 1 Month Notice to End Tenancy for Cause (the "Notice") and to recover the filing fee for the Application.

The landlord's agent, the tenant, her advocate and agent and an independent witness appeared and the hearing process was explained. Thereafter the parties gave affirmed testimony and were provided the opportunity to present their relevant evidence orally and in documentary form, and make submissions to me.

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession and to recover the filing fee?

Background and Evidence

This tenancy began on or about April 17, 2009, monthly rent is \$213.00 and the tenant paid a security deposit of \$300.00.

The tenant was issued a 1 Month Notice to End Tenancy for Cause on December 6, 2011, and subsequently filed an application for dispute resolution seeking to cancel the Notice.

The hearing on the tenant's application was held on December 21, 2011, and a Decision by another Dispute Resolution Officer ("DRO") was issued on December 29, 2011. The DRO in the decision of December 29, 2011, determined that the landlord had sufficiently proven the cause listed on the Notice to End Tenancy of December 6, 2011, and determined that the Notice was of full force and effect.

Subsequent to the Decision of December 29, 2011, the tenant filed an application for Review of that Decision, resulting in the reviewing DRO dismissing the application for Review and confirming the original Decision. The Decision on the application for Review was dated January 12, 2012.

At the hearing, the landlord's agent reaffirmed that she is seeking an order of possession based upon the 1 Month Notice to End Tenancy for Cause, issued December 6, 2012.

Upon query from the tenant, the landlord's agent stated she could allow the tenant an extension of time to vacate the rental unit, that being on February 25, 2012.

The tenant and her representatives attempted, and were allowed in a limited manner, to make statements regarding issues and matters not relevant to the landlord's application. However, I note that did not allow the tenant or her representatives to make all the statements they wanted which did not pertain to the issues contained in the landlord's application.

Analysis

Based on the above testimony, evidence, and on a balance of probabilities, I find as follows:

Section 47 of the Residential Tenancy Act (the "Act") states that a landlord may end a tenancy by issuing to the tenant a 1 Month Notice to End Tenancy for Cause. The landlord issued such Notice to the tenant and the Notice was upheld and determined to be valid and enforceable by a previous DRO on the tenant's application to cancel the Notice.

I therefore find that the landlord is entitled to an order of possession, effective, pursuant to the landlord's agreement, on February 25, 2012, at 1:00 p.m.

I am enclosing an order of possession with the landlord's Decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court of British Columbia for enforcement should the tenant fail to comply with this order of possession.

I also find that the landlord's application had merit and that they are entitled to recovery of the filing fee, in the amount of \$50.00.

I allow the landlord to withhold \$50.00 from the tenant's security deposit in satisfaction of their monetary claim.

Conclusion

The landlord is granted an Order of Possession, effective on February 25, 2012, at 1:00 p.m., and may withhold \$50.00 from the tenant's security deposit in satisfaction of their monetary claim for recovery of 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: February 17, 2012.

Residential Tenancy Branch