



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 12, 2012 for an Order of Possession pursuant to a Notice to End Tenancy for cause served on December 12, 2011 and setting and end of tenancy date of January 31, 2012. Cause cited on the notice stated that the tenant's conduct had an adverse affect on the quiet enjoyment, security, safety or physical well being of another occupant or the landlord.

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 her participation in the telephone conference call hearing. Therefore, it proceeded in her 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 a recovery of the filing fee for this proceeding from the tenant.

Background and Evidence

The landlord stated that she has been managing the apartment building for approximately two years and she has not been able to locate a written rental agreement for the subject tenancy. The tenant declined the landlord's request to share her copy and refused to sign a new agreement. The landlord believes the tenancy has been ongoing for several years and rent is currently \$850 due on the first day of the month. There is a security deposit but the amount is presently unknown.

During the hearing, the landlord gave evidence that it is common practice, if rent is not received earlier in the day, to provide tenants with a polite and generic reminder note in the event they have forgotten. The tenant seems to have taken offence to the practice and written the landlord a series of berating notes, submitted into evidence, in which the landlord is variously addressed as “stupid.” “asshole,” and is accused of harassment.

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 of December 12, 2011 and she is, therefore, conclusively presumed to have accepted that the tenancy ended on January 31, 2011 and is now over holding.

Having found that the tenancy is ending on the basis that the tenant has not made application to contest the Notice to End Tenancy, it is not necessary to canvass the reasons for the notice in full detail. However, I would observe that the tenant's communication with the landlord is consistently antagonistic and demeaning.

The landlord has agreed to continue the tenancy until February 29, 2012, and I find that she is entitled to an Order of Possession to take effect at 1 p.m. on that date.

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 and as permitted under section 72 of the *Act*, I hereby order that she may do so by retaining \$50 from the tenant's security deposit.

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 February 29, 2012.

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 01, 2012.

Residential Tenancy Branch