



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, FF

Introduction

The hearing was scheduled in response to the an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The female Landlord stated that Tenant was personally served with copies of the Application for Dispute Resolution and Notice of Hearing on February 08, 2012. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause and to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

Background and Evidence

The female Landlord stated that this tenancy began on December 01, 2011; that the Tenant lives in the lower portion of the residential complex; and that the Landlord and the Tenant do not share kitchen or bathroom facilities.

The male Landlord stated that he personally served the Tenant with a One Month Notice to End Tenancy for Cause on January 24, 2012. The One Month Notice to End Tenancy for Cause declared that the Tenant must vacate the rental unit by February 29, 2012.

The Notice to End Tenancy for Cause informed the Tenants that they must move out of the rental unit by the date set out on the front page of the Notice if they do not dispute the Notice within ten days of receiving it. I have no evidence that the Tenants disputed the Notice to End Tenancy.

Analysis

In the absence of evidence to the contrary, I find that on January 24, 2012 the Tenant was personally served with a One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*, which required the Tenant to vacate the rental unit prior by February 29, 2012.

Section 47(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant accepted that the tenancy was ending on February 29, 2012, pursuant to section 47(5) of the *Act*.

I decline to award the Landlord compensation for the cost of filing this Application for Dispute Resolution, as I find there is insufficient evidence to establish that the Tenants will not vacate the rental unit by February 29, 2012.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on February 29, 2012. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

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 27, 2012.

Residential Tenancy Branch