



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPQ, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy of a subsidized unit began on August 1, 2010. Rent in the amount of \$480.00 is payable in advance on the first day of each month. No security deposit was taken. The Landlord states that in February 2012, it was determined that the Tenant no longer qualifies for a subsidy on the basis of having no children in the custody of the Tenant and on January 31, 2012, the Landlord personally served the Tenant with a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) with an effective date of March 31, 2012. The Tenant did not file an application to dispute the Notice. The Landlord requests an Order of Possession for March 31, 2012. The

Landlord states that on March 18, 2012, an inspection was made in the unit and no packing appeared to be yet taking place.

Analysis

Section 49.1 of the Act requires that upon receipt of a Notice to End Tenancy for Landlord's Use, the tenant must, within fifteen day of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Given that the Tenant did not file an application to dispute the Notice, I find that the Tenant must move out of the unit and that the Landlord is entitled to an Order of Possession effective March 31, 2012. As I do not consider lack of evidence of packing to be indicative that the Tenant will likely not move out of the unit by March 31, 2012, I decline to award the Landlord recovery of the filing fee.

Conclusion

I grant an Order of Possession to the Landlord effective 1:00 p.m. March 31, 2012. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in 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: March 26, 2012.

Residential Tenancy Branch