



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Cause and Breach of an agreement with the landlord.

The landlord participated in the hearing and provided affirmed testimony. He testified that she served the Notice of a Dispute Resolution Hearing to the tenants in person on March 21st, 2012. The landlord stated that the tenant took the notice and slammed the door on his face. The tenants did not participate and the hearing proceeded in the tenants' absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The rental unit consists of a single detached home. Pursuant to a written agreement, the tenancy started on November 1, 2010. The rent is \$1800.00 per month and the tenant paid a security deposit of \$900.00.

The landlord testified that a condition of the tenancy agreement is no smoking inside the house. He stated that there are ashtrays inside, that the tenant answers the door with a cigarette in his mouth, and that the house now reeks with cigarette smoke. He said that

the tenants ignored numerous warnings and that they do not seem to take him seriously.

In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenants in person on November 25th, 2011.

In his documentary evidence, the landlord provided 16 photographs showing that the tenants do not maintain the property in a reasonable state of cleanliness and sanitary standards, showing in part a significant amount of dog feces in and outside the house.

The tenant seeks an order of possession for a breach of a term of the tenancy agreement.

Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 47(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy with cause does not make an application for dispute resolution within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

On that basis alone the landlord is entitled to an Order of Possession.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This 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: April 04, 2012.

Residential Tenancy Branch