



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession, and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of part of a basement suite in a single detached home. Pursuant to a written agreement, the month to month tenancy started on December 15, 2011. The rent is \$550.00 per month and the tenant paid a security deposit of \$275.00.

The landlord testified that the tenants have not paid rent on time since the start of the tenancy; he stated that he receives partial payments of \$100.00 of \$150.00 at a time, but the rent is not paid when it is due on the 1st of every month.

In his documentary evidence, the landlord provided a copy of the 1 Month Notice to End Tenancy served on the tenants in person on March 1, 2012.

The tenant did not dispute the landlord's evidence or the notice, and confirmed that due to personal circumstances rent is not paid on time.

Analysis

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 tenants in this matter have not filed an application for dispute resolution. The notice is valid and on that basis the landlord is entitled to an order of possession.

Section 53(1) of the Act allows the effective date of a Notice to End Tenancy to be changed to the earliest date upon which the notice complies with the Act. Section 53(2) of the Act states that if the effective date in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section. Accordingly I find that the effective date of the notice is changed from March 31, to April 30, 2012, which is 3 days since the date of this hearing.

Conclusion

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

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord is entitled to recover the \$50.00 filing fee by deducting that amount from the security deposit.

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: May 03, 2012.

Residential Tenancy Branch