



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession and to recover the filing fee for the application.

The landlord appeared and gave affirmed testimony.

The landlord submitted evidence proving service of the Application for Dispute Resolution and Notice of Hearing (the "hearing package") by registered mail to each tenant on May 2, 2012.

I find the tenants were served in a manner complying with section 89 of the Residential Tenancy Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present his evidence orally and in documentary form.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and to recover the filing fee?

Background and Evidence

This month to month tenancy began on June 1, 2009, monthly rent is \$1000.00 and the tenants paid a security deposit of \$500.00 on June 1, 2009.

The landlord submitted evidence that the tenants were served a 1 Month Notice to End Tenancy for Cause (the "Notice"), dated April 16, 2012, via personal delivery on that date, listing an effective end of tenancy on May 31, 2012.

The Notice explains that the tenants had ten days to dispute the Notice. It also explains that if the tenants do not file an Application to Dispute the Notice within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

The causes as stated on the Notice alleged that the tenants have made repeated late payments of rent.

The landlord's relevant evidence included a copy of 1 Month Notice to End Tenancy for Cause, bank statements proving the late rent payments and documents verifying service of the hearing package and the Notice.

Analysis

Based on the foregoing testimony and evidence, and on a balance of probabilities, I find as follows:

I have reviewed all the evidence and accept that the tenants have been served with the notice to end tenancy as declared by the landlord. The Notice was received by the tenants on the date it was issued, April 16, 2012 and I no evidence before me that the tenants filed to dispute the Notice within 10 days of receiving the Notice.

Based on the foregoing, I find the tenants are conclusively presumed under section 47(5) of the Act, to have accepted that the tenancy ended on the effective date of the Notice and must move out of the rental unit.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service on the tenants.

I am enclosing the order of possession with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession by vacating the rental unit.

I find that the landlord is entitled to recovery of the filing fee of \$50.00, and at the landlord's request, I allow him to retain \$50.00 from the tenants' security deposit in satisfaction of the monetary claim.

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 23, 2012.

Residential Tenancy Branch