



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 to the rental unit due to alleged cause and to recover the filing fee for the application.

The parties and their witnesses appeared, the hearing process was explained and the parties were given an opportunity to ask questions about the hearing process. The evidence was discussed and no party raised any issue regarding service of the evidence.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to documentary evidence timely submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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

A tenancy agreement was not entered into evidence. I heard testimony that the tenancy began on April 18, 2012, monthly rent is \$800.00, due on the first day of the month, and the tenant paid a security deposit of \$400.00 on or about April 18, 2012.

The landlord submitted evidence that the tenant was served a 1 Month Notice to End Tenancy for Cause (the "Notice"), dated June 25, 2012, via personal delivery on that date, listing an effective end of tenancy on July 31, 2012.

The Notice explained that the tenant had ten days to dispute the Notice. It also explains that if the tenant did not file an application to dispute the Notice within ten days, then the tenant is 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 tenant has allowed an unreasonable number of occupants in the rental unit and has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.

The landlord's relevant evidence included a copy of the 1 Month Notice to End Tenancy, evidence contained on a compact disc and a written notice to the tenant.

The tenant confirmed receipt of the Notice and that she had not filed an application disputing the Notice as it was her intention to vacate the rental unit by the effective date of the Notice, or July 31, 2012.

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 tenant has been served with the notice to end tenancy as declared by the landlord. The Notice was served on June 25, 2012, via personal delivery and the tenant confirmed that she has not filed an application disputing the Notice.

Based on the foregoing, I find the tenant is 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 for the rental unit effective on the move out dated listed on the Notice, or July 31, 2012.

The order of possession is enclosed 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 tenant fail to comply with this order of possession by vacating the rental unit.

I find that the landlord is entitled to recover the filing fee of \$50.00, and at the landlord's request, I direct that he retain \$50.00 from the tenant's security deposit in satisfaction of this 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: July 27, 2012.

Residential Tenancy Branch