



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPC, FF

Introduction

This was the hearing of an application by the landlord for an Order of Possession and to recover the filing fee. The hearing was conducted by conference call. Although the tenant was served with the application for dispute resolution and Notice of hearing by personal service on September 26, 2012 they did not call into the conference and did not participate in the hearing. The landlord testified that the tenant still resides in the rental unit. The landlord was permitted to advance their claim.

The landlord also applied to retain the security deposit. It was highlighted to the landlord that this portion of their application is premature, and therefore **dismissed**, with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?
Is the landlord entitled to the monetary amount claimed?

Background and Evidence

On September 10, 2012 the tenant was served with a One month Notice to End Tenancy for Cause, by personal service. The tenant has not / did not file an application to dispute the Notice to End Tenancy within the 10 days permitted to do so under the Act.

The landlord provided a copy of the Notice to End dated September 10, 2012 with an effective date of October 31, 2012.

Analysis

Section 47 of the Act provides that if a tenant does not apply to dispute a one Month Notice to End Tenancy for Cause within 10 days after receiving it, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and **must** vacate the rental unit by that date. The Notice to End Tenancy requires the tenant to vacate the rental unit by October 31, 2012. The earliest date the Notice is legally effective to end the tenancy is October 31, 2012.

The tenant was served with the Notice to End and they have not disputed it. As a result, I find that the landlord is entitled to an **Order of Possession** effective October 31, 2012.

As the landlord sought an Order of Possession in concert with the Notice to End for their convenience, I decline to grant the landlord their filing fee.

Conclusion

I grant an Order of Possession to the landlord **effective October 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 final and binding on both parties.

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: October 29, 2012
