



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC and FF

Introduction

This application was made by the landlord on December 5, 2012 seeking an Order of Possession pursuant to a one-month Notice to End Tenancy for cause dated October 17, 2012 and setting an end of tenancy date of November 30, 2012. The landlord also sought to recover the filing fee for this proceeding from the tenant.

Despite having been served with the Notice of Hearing served in person on December 6, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession as requested and to recovery the filing fee for this proceeding?

Background and Evidence

This tenancy began on May 1, 2010 under a fixed term rental agreement, becoming a month to month tenancy on October 1, 2010. Rent is \$425 per month and the landlord holds a security deposit of \$212.50 paid at the beginning of the tenancy.

During the hearing, the landlord stated that the Notice to End Tenancy had been issued under section 47(1)(d)(i) which provides for the service of such notice when a tenant or a person permitted on the rental property by the tenant has, "significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property..."

In addition to a copy of Notice to End Tenancy, the rental agreement and a letter proposing a time for the move-out condition inspection, the landlord also submitted copies of five forms called "Cautionary Notice to Tenant" in which referred to breaches of the *Act* and/or rental agreement as follows:

- September 18, 2012 – loud noise, arguing;
- May 25, 2012 – visitor yelling outside suite, television at high volume at late hours;
- May 23, 2012 – loud tv, loud vehicle in driveway, garbage outside door, slamming door;
- November 19, 2010 – unauthorized dog in suite;
- October 20, 2010 – unauthorized dog in suite.

Each of the cautionary notes contains a statement that further breaches if repeated may result in a Notice to End Tenancy.

Analysis

As stated on the Notice to End Tenancy, Section 47(4) of the *Act* provides a tenant who has received such notice 10 days within which the tenant may make application to contest the notice.

Section 47(5) of the *Act*, states that if a tenant does not make application to contest the notice on time, then the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate by that date.

In the present matter, I find that the tenancy ended on November 30, 2012.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenant.

I further find that, as the application has successes on its merits, the landlord is entitled to recover the filing for this proceeding from the tenant. As authorized by section 72 of the *Act* I hereby order that the landlord may retain \$50 from the tenant's security deposit for that purpose.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession enforceable through the Supreme Court of British Columbia to take effect two days from service of it on the tenant.

The landlord is authorized to retain \$50 from the tenant's security deposit to recover the filing fee for this proceeding.

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: December 20, 2012.

Residential Tenancy Branch