

DECISION

Dispute Codes: OPL

Introduction

This is the Landlord's application for an Order of Possession.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on November 5, 2012.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenant was duly served with the Notice of Hearing documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence. The teleconference remained open for 15 minutes.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord gave the following testimony:

On September 12, 2012, the Landlord served the Tenant with a 2 Month Notice to End Tenancy for Landlords Use, by handing the Notice to the Tenant at the rental unit. The Landlord has not received any Notice of Hearing documents from the Tenant disputing the Notice. The Notice indicates that, "The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant." The Notice gives an effective date for the end of the tenancy of November 12, 2012.

The Landlord stated that the Tenant is still living in the rental unit, but has not paid rent for some time now and is damaging the rental unit. He stated that rent is due on the first day of each month.

Analysis

I accept the Landlord's affirmed testimony that he served the Tenant with the Notice to End Tenancy on September 12, 2011. The Tenant has not filed an Application for Dispute Resolution to cancel the Notice to End Tenancy. Therefore, pursuant to Section 49(9) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 53 of the Act provides that if a notice to end tenancy indicates an effective date that does not comply with the Act,

the Notice is deemed to be changed to the earliest date that complies with the section. In this case, I find that the end of tenancy date was November 30, 2012. Therefore, I find that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

The Landlord did not apply for a monetary order on his Application for Dispute Resolution and therefore I advised him that it was not going to be dealt with today. I also advised the Landlord that the Tenant is entitled to compensation in the equivalent of one month's rent pursuant to the provisions of Section 51 of the Act.

Conclusion

I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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 06, 2012.

Residential Tenancy Branch