



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, 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 for the rental unit due to alleged cause, a monetary order for unpaid rent and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on December 6, 2012. The landlord supplied of the tracking number and receipt of the registered mail.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

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

Background and Evidence

The tenant was issued a 1 Month Notice to End Tenancy for Cause (the "Notice") on August 22, 2012, and subsequently filed an application for dispute resolution seeking to cancel the Notice.

The hearing on the tenant's application was held on November 1, 2012, and a Decision by another Dispute Resolution Officer ("DRO") was issued on November 9, 2012. The DRO in that Decision determined that the landlord had proven sufficient cause for issuing the Notice and ordered the tenant to vacate the rental unit by 1:00 p.m. on November 30, 2012. The DRO also said that the landlord was at liberty to file an application for dispute resolution seeking an order of possession if necessary.

The landlord said that the tenant has not yet vacated the rental unit and is seeking such order of possession for the rental unit.

The landlord also said that the tenant paid rent in December 2012 and January 2013; however, the tenant was issued receipts indicating the acceptance was for use and occupancy only.

The tenant has indicated to the landlord that he intended to vacate at the end of January 2013, and the landlord agreed he could stay to that day, requesting an order of possession to be effective on January 30, 2013.

Analysis

Based on the relevant oral and written evidence and on a balance of probabilities, I find as follows:

Section 47 of the Act states that a landlord may end a tenancy by issuing to the tenant a 1 Month Notice to End Tenancy for cause. The landlord issued such Notice to the tenant and the Notice was upheld and determined to be valid and enforceable by a previous DRO on the tenant's application to cancel the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit, effective at 1:00 p.m. on January 31, 2013.

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 for enforcement should the tenant fail to comply with the terms of the order.

I find the landlord is entitled to recovery of the filing fee of \$50.00 and I therefore grant the landlord a final, legally binding monetary order in the amount of \$50.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

Conclusion

The landlord is granted an order of possession for the rental unit, effective at 1:00 p.m. on January 31, 2013, and is granted a monetary order for \$50.00 for recovery of the filing fee.

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* and is being mailed to both the applicant and the respondent.

Dated: January 10, 2013.

