



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPC, FF

Introduction

This hearing concerns the landlord's application for an order of possession for unpaid rent / an order of possession for cause / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

A previous hearing was held in response to applications by both parties (files # 803949 & 803150), with a decision issued by date of January 29, 2013. In summary, both applications were dismissed. It appears that an acrimonious relationship continues to persist between them.

There is no written residential tenancy agreement in evidence for this tenancy which began on July 1, 2010. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$450.00 was collected on June 20, 2010.

Since the last hearing, the landlord issued a 1 month notice to end tenancy for cause dated February 21, 2013. The notice was served by way of posting on the tenants' door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is March 31, 2013. There are six (6) different reasons shown on the notice in support of its issuance. Subsequently, the tenants did not dispute the notice and they continue to reside in the unit.

Thereafter, arising from rent which was unpaid when due on March 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated March 2, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. Within 3 days of receiving the notice the tenants paid the rent in full for March.

Later, arising from rent which was unpaid when due on April 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated April 2, 2013. A copy of the notice was submitted in evidence. During the hearing the tenants testified that it is their intention to pay the rent in full for April by no later than April 5, 2013.

As rent was paid in full within 5 days after service of the 10 day notice dated March 2, 2013, an application for an order of possession on the basis of that notice is not presently before me.

As the 5 day period available to the tenants to pay the rent in full for April has not expired, following issuance of the 10 day notice dated April 2, 2013, an application for an order of possession on the basis of that notice is not presently before me.

In short, the issues before me are limited to the landlord's application for an order of possession based on the 1 month notice to end tenancy for cause dated February 21, 2013, and recovery of the filing fee.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed testimony of the parties, I find that the tenants were served with a 1 month notice to end tenancy for cause dated February 21, 2013. I find that the notice was served by way of posting on the tenants' door on that same date. Accordingly, pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, I find that the notice was received by the tenants 3 days later on February 24, 2013.

Section 47 of the Act addresses **Landlord's notice: cause**. Pursuant to section 47(4) of the Act, the tenants had 10 days after receiving the notice on February 24, 2013, to file an application to dispute it. However, there is no evidence before me that the tenants did so. In the result, I find that the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find

that the landlord has established entitlement to an **order of possession**. In view of all the circumstances, I find that the order of possession is to be effective **April 30, 2013**.

As the landlord has succeeded in his application, I find that he has established entitlement to recovery of the **\$50.00** filing fee. I order that this amount may be withheld from the tenants' security deposit at such time as the tenancy ends.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, April 30, 2013**. This order must be served on the tenants. Should the tenants 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.

I order that the landlord may recover the **\$50.00** filing fee by way of withholding that amount from the tenants' security deposit.

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: April 4, 2013

Residential Tenancy Branch

