



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, 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 and for recovery of the filing fee.

The landlord and the landlord's agents appeared; the tenant did not appear.

The landlord gave evidence that the tenant was served with their Application for Dispute Resolution and Notice of Hearing by posting the documents on the tenant's door, on May 2, 2013, and by registered mail on May 1, 2013. The landlord supplied the evidence of the registered mail containing the tracking number.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy 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.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue-In the hearing, the landlord waived their request to recover the filing fee and I have therefore not considered this issue.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to alleged cause?

Background and Evidence

The evidence shows that this tenancy began on December 1, 2001, the monthly rent at the beginning of the tenancy was \$350, and it was increased to \$365, beginning July 1, 2012.

The landlord submitted evidence that the tenant was served with a 1 Month Notice to End Tenancy for Cause on April 9, 2013, by posting it on the tenant's door, listing an effective end of tenancy of May 31, 2013. The cause listed was that the tenant was repeatedly late in paying rent.

Section 90 of the Act states that documents served by posting on them on the door are deemed delivered three days later. Thus the tenant was considered to have received the Notice on April 12, 2013.

The Notice explained that the tenant had 10 days to dispute the Notice. It also explains that if the tenant did not file an application to dispute the Notice within 10 days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

The landlord submitted that as to the cause listed, the tenant has refused to pay the increased amount of rent, despite being warned that the failure to do so would result in being issue a notice to end the tenancy.

I have no evidence before me that the tenant filed an application to dispute the Notice.

Analysis

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

I find the tenant was served a 1 Month Notice to End Tenancy for Cause, did not apply to dispute the Notice within 10 days of service, or at all, and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ends on the effective date of the Notice.

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

Conclusion

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recoverable from the tenant.

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: May 28, 2013

Residential Tenancy Branch