



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, MND / OPC

Introduction

This hearing was scheduled in response to 2 applications: i) by the landlords for an order of possession for cause / and a monetary order as compensation for damage to the unit, site or property; and ii) by the tenants for cancellation of a 1 month notice to end tenancy for cause. Landlord "AK" attended and gave affirmed testimony.

The landlord confirmed that he had received the tenants' application for dispute resolution and notice of hearing (the "hearing package"). The landlord testified that the landlord's hearing package was served on the tenants by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail.

Despite all the foregoing particulars related to service of the hearing packages, the tenants did not appear.

Issue(s) to be Decided

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

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on February 15, 2013. Monthly rent of \$900.00 is due and payable in advance on the first day of each month, and a security deposit of \$450.00 was collected. There is no move-in condition inspection report in evidence.

The landlords issued a 1 month notice to end tenancy for cause dated March 25, 2013. The notice was served in person 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 May 1, 2013. There are several reasons identified on the notice in support of its issuance. Subsequently, the landlords filed an application for dispute resolution on April

5, and the tenants filed their application on April 8, 2013. The landlord testified that the tenants have not paid rent for either April or May 2013, and they still reside in the unit.

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

Section 47 of the Act addresses **Landlord's notice: cause**. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were personally served with a 1 month notice to end tenancy for cause dated March 25, 2013. I find that the tenants' application to dispute the notice which was filed on April 8, 2013, was filed outside the 10 day limit available for doing so as set out in section 47(4) of the Act. In order to fall within the 10 day limit, the tenants' application would have been required to be filed by no later than April 4, 2013. In their application the tenants have not applied for more time to make an application to cancel a notice to end tenancy. Accordingly, I find that the landlords have established entitlement to an **order of possession**.

In their application, while the landlords note that no rent was paid for April, their application for compensation is limited to compensation for damage to the unit, site or property, rather than compensation for unpaid rent. Further, the landlord confirmed that a 10 day notice to end tenancy has not presently been issued.

In the absence of any documentary evidence to support the landlords' claim for compensation for damage to the unit, site or property, and in view of the fact that the tenants still continue to occupy the unit, this aspect of the landlords' application is dismissed with leave to reapply.

Finally, the landlords have not presently applied to retain the security deposit or recover the filing fee.

The tenants' application is hereby dismissed.

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service on the tenants. 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.

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 03, 2013

Residential Tenancy Branch

