



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR & FF

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was personally served on the Tenants on May 3, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on each of the Tenants on May 17, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began approximately 7 or 8 months ago. The rent is \$775 per month payable on the first day of each month. The tenant(s) failed to pay the rent for May when due. The landlord served a 10 day Notice to End Tenancy on the Tenants on May 3, 2013. The tenants eventually paid the rent on May 16, 2013 and it was accepted by the landlord for "use and occupation only." The tenants paid the rent for June on June 5, 2013 and the landlord accepted that pay "for use and occupation only." The tenant(s) continue to live in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There was outstanding rent and the landlord served a 10 day Notice to End Tenancy on the tenants on May 3, 2013. The tenants failed to pay the arrears within the 5 days that would void the Notice. The tenants subsequently paid the rent but it was accepted by the landlord for "use and occupation." The rent for June has also been paid and accepted for "use and occupation only." The effect of this is that the landlord has chosen not to reinstate the tenancy and the landlord is entitled to an Order for Possession effective at the end of the rental payment period. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession effective June 30, 2013.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I further order that the Tenants pay to the Landlord the sum of \$50 for the cost of the filing fee.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court 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: June 11, 2013

Residential Tenancy Branch

