



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC; FF

Introduction

This is the Landlord's application for an Order of Possession; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit on July 25, 2013, with a witness present.

Based on the affirmed testimony of the Landlord, I find that the Tenant was duly served with the Notice of Hearing documents. Despite being served, the Tenant did not sign into the conference and the matter continued in her absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord testified that this tenancy began on May 10, 2013. Monthly rent is \$600.00 due on the tenth day of each month. The Tenant paid a security deposit in the amount of \$300.00 at the beginning of the tenancy.

The Landlord provided a copy of the Notice to End Tenancy for Cause in evidence. The Notice was issued on July 11, 2013. The Landlord testified that he served the Tenant with the Notice by posting it to the Tenant's door on July 11, 2013.

The Tenant did not file an Application for Dispute Resolution seeking to cancel the Notice.

Analysis

I accept that the Landlord's affirmed testimony that he served the Tenant with Notice to End Tenancy by posting it to her door on July 11, 2013. Service in this manner is deemed to be effected three days after service of a document, in this case July 14, 2013.

The Tenant did not file for dispute resolution, within 10 days of receiving the Notice to End Tenancy. Page two of the Notice clearly indicates that the Tenant has 10 days after receipt of the Notice to file an Application to dispute it. Section 47(5) of the Act provides that failure to dispute a notice to end tenancy issued for cause means that the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

The Notice gives an end of tenancy date of August 11, 2013, however Section 47(2) of the Act states that a notice under this section must end the tenancy effective on a date that is not earlier than one month after the date that the Notice is received, and the day before the day in the month that rent is payable under the tenancy agreement. Therefore, the earliest date that the tenancy could end is September 9, 2013.

Section 53 of the Act provides that an incorrect end of tenancy date on a notice to end tenancy is automatically changed to the earliest date that complies with the Act. Therefore, I find that the Landlord is entitled to an Order of Possession effective September 9, 2013.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct the \$50.00 monetary award from the security deposit.

Conclusion

I hereby provide the Landlord with an Order of Possession effective **1:00 p.m., September 9, 2013**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I order that the Landlord may deduct the cost of the **\$50.00** filing fee from the security deposit. The balance of the security deposit must be applied in accordance with the provisions of the Act.

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: August 06, 2013

Residential Tenancy Branch

