



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, FF
CNC, FF

Introduction

This hearing concerns 2 applications: i) by the landlords for an order of possession for cause / and recovery of the filing fee; and ii) by the tenants for cancellation of a notice to end tenancy for cause / and recovery of the filing fee. The landlords attended and gave affirmed testimony.

The landlords testified that their application for dispute resolution and notice of hearing (the "hearing package") was personally served on the tenants on August 2, 2013. The landlords also testified that the tenants served the landlords with the tenants' hearing package. Despite all the foregoing, the tenants did not appear.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on June 1, 2010. Monthly rent of \$1,200.00 is due and payable on the last day of each month. A security deposit of \$600.00 was collected on May 21, 2010, and a pet damage deposit of \$200.00 was collected on May 22, 2010.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlords issued a 1 month notice to end tenancy for cause dated July 15, 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 August 31, 2013. Reasons shown on the notice in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The tenants filed an application to dispute the notice on July 24, 2013. The landlords testified that the tenants still continue to occupy 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

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenants were served with a 1 month notice to end tenancy for cause dated July 15, 2013. While the tenants filed an application to dispute the notice within the 10 day period available for doing so pursuant to section 47(4) of the Act, the tenants did not attend the hearing which was scheduled in response to applications by both parties. In the result, the tenants' application is hereby dismissed, and I find that the landlords have established entitlement to an **order of possession**.

As the landlords have succeeded with their application, I order that they may recover the \$50.00 filing fee by way of withholding that amount from the tenants' security deposit.

As the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

The tenants' application is hereby dismissed.

The landlords may withhold \$50.00 from the tenants' security deposit in order to recover the filing fee.

I hereby issue an **order of possession** in favour of the landlords effective not later than **1:00 p.m., Saturday, August 31, 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.

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 28, 2013

Residential Tenancy Branch

