



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding James Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPL

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 the landlord's use of the property.

The landlord's agents (hereafter "landlord") appeared; the tenant did not appear.

Landlord DH provided evidence that she served the tenant with the landlord's Application for Dispute Resolution, with evidentiary attachments, and Notice of Hearing by registered mail on August 14, 2013. The landlord's evidence included the receipt containing the tracking number of the registered mail.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "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, and make submissions to me.

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

Issue(s) to be Decided

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

Background and Evidence

The landlord gave evidence that this tenancy began on March 1, 2006, monthly rent is currently \$995 and that the landlord holds a security deposit from the tenant in the amount of \$412.50.

The landlord gave evidence that they served the tenant a 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "Notice"), on July 25, 2013, by placing it under the tenant's door. The Notice listed an effective move-out date of September 30, 2013.

The landlord also stated that she confirmed with the tenant on the following day, July 26, that he had received the Notice.

The reason listed on the Notice was that the landlord has all the necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant. The landlord provided these documents as evidence.

The Notice explained the tenant had 15 days within receipt to file an application for dispute resolution with the Residential Tenancy Branch ("RTB") to dispute the Notice.

The landlord also said that the tenant has been compensated the amount equal to one month's rent as the tenant has elected to withhold rent for September.

Analysis

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

I find that the tenant was properly served a 2 Month Notice to End Tenancy for Landlord's Use of the Property and did not apply to dispute the Notice. Therefore pursuant to section 49(9) of the Act, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, in this case September 30, 2013, and must move out of the rental unit.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective on September 30, 2013, at 1:00 p.m.

Conclusion

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after it has been served upon him, 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* and is being mailed to both the applicant and the respondent.

Dated: September 18, 2013

Residential Tenancy Branch

