



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mok's Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause and for breach of a material term of the tenancy agreement pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:46 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord entered sworn testimony supported by written evidence in the form of a Proof of Service document attesting to the landlord's posting of the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on the tenant's door at 11:10 a.m. on January 28, 2014. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 1 Month Notice on January 31, 2014, the third day after its posting.

The landlord also entered sworn testimony and written evidence that the landlord sent a copy of the landlord's dispute resolution hearing package to the tenant by registered mail on February 15, 2014. Landlord AC testified that this package was successfully delivered to the tenant. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's dispute resolution hearing package on February 20, 2014, the fifth day after its mailing.

Although the landlords believe that the tenant vacated the rental unit on or about March 26, 2014, some of his belongings appear to be still in the rental unit. The landlord asked for an Order of Possession to secure vacant possession of the rental unit and change the locks.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for cause or for breach of the tenancy agreement? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

On May 17, 2012, the parties signed a one-year fixed term Residential Tenancy Agreement (the Agreement) that was to take effect on June 1, 2012. According to the terms of the Agreement, monthly rent is set at \$850.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$425.00 security deposit paid on May 17, 2012.

The landlord entered into written evidence a copy of the 1 Month issued on January 28, 2014. In that Notice, requiring the tenant to end this tenancy by February 28, 2014, the landlord cited the following reasons for the issuance of the Notice:

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

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;...*

In addition to the landlords' sworn testimony, the landlord also entered into written evidence a series of letters from other tenants in this rental unit describing the behaviours that gave rise to the landlord's 1 Month Notice.

Analysis

Based on the landlord's undisputed evidence, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of being deemed to have received the 1 Month Notice. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 28, 2014. As that may not have occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant. Although the landlord's application does not seek to retain any portion of the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$50.00 from the tenant's security deposit to satisfy this monetary award.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary award of \$50.00 in the landlord's favour to enable the landlord to recover the filing fee from the tenant. To implement this award, I order the landlord to retain \$50.00 from the tenant's security deposit, the current value of which is hereby reduced from \$425.00 to \$375.00.

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: April 03, 2014

Residential Tenancy Branch

