



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPE OPC

Introduction

The landlord applied under the *Residential Tenancy Act* (the “Act”) for an order of possession for cause based on an undisputed 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”), and for employment ending with the landlord.

The tenant, an advocate for the tenant, and the landlord attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing. I have considered all evidence that was presented during the hearing.

The landlord testified that he served the Notice of Hearing and Application for Dispute Resolution on the tenant by posting it to the tenant’s door on February 21, 2014. The landlord stated that he served his evidence on the tenant by registered mail on April 2, 2014, and provided a registered mail tracking number in evidence. As the tenant called into the hearing, I am satisfied that the tenant was aware of the hearing and the landlord’s Application for Dispute Resolution.

Preliminary and Procedural Matters

At the outset of the hearing, the tenant’s advocate, “TB” who is also a social worker, explained that she and the tenant were calling into the teleconference hearing from the hospital and that the tenant was in the hospital under the Mental Health Act. The social worker testified that the tenant was admitted to hospital on March 29, 2014 and that the tenant was seeking an adjournment as a result. The tenant’s request for an adjournment was denied as I find there would be a great prejudice to the landlord to delay the hearing as the landlord has applied for an order of possession based on an undisputed 1 Month Notice. In reaching this finding, I considered that the 1 Month Notice was dated January 6, 2014 and that there was no evidence presented during the hearing that the tenant was unable to dispute the 1 Month Notice pursuant to section 47

of the *Act*, within 10 days of being served the 1 Month Notice, and that the 1 Month Notice was served almost three months before the tenant was admitted to the hospital.

At the outset of the hearing, and prior to the tenant being affirmed, the social worker testified that the tenant left the room without an explanation. After a twenty-four minute hearing, the tenant had not returned. The social worker remained in the teleconference hearing representing the tenant as an advocate for the duration of the hearing. The hearing continued in the tenant's absence, with the advocate for the tenant and the landlord present. The social worker stated that she did not know why the tenant left the room during the hearing.

Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

Background and Evidence

The landlord submitted a copy of the 1 Month Notice in evidence. The 1 Month Notice is dated January 6, 2014. The landlord testified that he served the tenant with the 1 Month Notice on January 6, 2014 in the parking lot outside of the rental unit, which was witnessed by third party, "BH". The landlord stated that the tenant did not dispute the 1 Month Notice. The 1 Month Notice lists four causes. The effective vacancy date of the 1 Month Notice is listed as February 28, 2014.

Analysis

Based on the landlord's undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 47(4) of the *Act* states that the tenant may dispute a 1 Month Notice within 10 days after the date the tenant receives the 1 Month Notice. In the matter before me, I accept the landlord's undisputed testimony that the tenant was served with the 1 Month Notice dated January 6, 2014 on January 6, 2014. The tenant did not apply to dispute the 1 Month Notice.

I find the deadline under section 47 of the *Act* to dispute the 1 Month Notice would have been January 16, 2014. As the tenant did not apply to dispute the 1 Month Notice and in accordance with section 47(5) of the *Act*, I find that the tenant is conclusively presumed to have accepted that the tenancy ended on February 28, 2014, the effective vacancy date listed on the 1 Month Notice.

I do not find it necessary to consider the four causes listed in the 1 Month Notice as a result. Furthermore, I do not find it necessary to consider the landlord's application relating to employment ending with the landlord, as the tenancy ended on February 28, 2014 based on an undisputed 1 Month Notice to End Tenancy for Cause.

Pursuant to section 55(2) of the *Act*, **I grant** the landlord an order of possession **effective two (2) days** after service on the tenant, as the effective vacancy date of the 1 Month Notice has passed. 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.

Conclusion

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 8, 2014

Residential Tenancy Branch

