



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIAN CENTENNIAL HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MRN, MNSD, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for an Order of Possession based on a notice to end tenancy for cause and to recover the filing fee. The Landlord also applied for a Monetary Order for unpaid rent and to keep the Tenant’s security deposit.

An agent for the Landlord appeared for the hearing and provided affirmed testimony as well as written evidence in advance of the hearing. The Tenant failed to appear for the 18 minute duration of the hearing and did not provide any written evidence in advance of the hearing.

The Landlord’s agent testified that the Tenant was served with a copy of the Application and the Notice of Hearing documents by registered mail on May 12, 2014. The Canada Post tracking number was provided as evidence for this method of service including a Canada Post tracking report which shows that the Tenant received and signed for the documents on the same day. Based on the written evidence and the Landlord’s agent’s testimony, I find that the Landlord served the Tenant with the required documents in accordance with Section 89(1) (c) of the Act.

At the start of the hearing the Landlord’s agent withdrew his monetary claim for the unpaid rent and keeping of the Tenant’s security deposit as he was not sure of the amount of rent that was outstanding. As a result, I amended the Landlord’s Application to remove his monetary claim under the authority afforded to me by Section 64(3) (c) of the Act.

As a result, I turned my mind to the Landlord’s Application for an Order of Possession.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord's agent testified that this tenancy started on October 1, 2008 on a month to month basis. A written tenancy agreement was completed and the Tenant is required to pay a rent contribution in the amount of \$466.00 on the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$300.00 at the start of the tenancy which the Landlord still retains.

The Landlord's agent testified that the Tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on March 26, 2014 by attaching it to the Tenant's door. The Landlord provided a copy of the Notice which shows an expected move out date of April 30, 2014 and states the reasons for ending the tenancy is because the Tenant: is repeatedly paying rent late; has engaged in an illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; and, has assigned or sublet the rental unit without the Landlord's written consent.

The Landlord testified that the Tenant has failed to pay rent on time since the latter half of 2013 and is therefore seeking an Order of Possession. The Landlord also confirmed that the Tenant has not paid full rent for April, May and June, 2014.

Analysis

I have examined the Notice and I find that it was completed with the correct information on the approved form as required by Section 52 of the Act and that the Notice was served by attaching it to the Tenant's door on March 26, 2014.

Section 90(c) of the Act provides that a document served by attaching it to the Tenant's door is deemed to have been received three days after. As a result, I find that the Tenant was deemed to have been served the Notice on March 29, 2014 and therefore, the effective date on the Notice is correct in accordance with Section 48(3) of the Act, which allows for one clear rental month before the Notice becomes effective.

Section 48(5) of the Act allows a Tenant to dispute a Notice by making an Application within ten days of receiving the Notice. Therefore, based on the deeming provisions above, the Tenant had until April 8, 2014 to make the Application, which she did not. Section 48(6) of the Act states that if a Tenant fails to make an Application within ten days, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice and must vacate the rental unit by that date.

Therefore, as the Tenant failed to make an Application within the time limits stipulated by the Act and the effective date of the Notice has passed, the Landlord's request for an immediate Order of Possession is granted.

Since the Landlord has been successful in this Application, I also grant him the \$50.00 filing fee for the cost of having to make this Application.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **two days after service on the Tenant**. This order must be served onto the Tenant and may then be filed and enforced in the Supreme Court as an order of that court.

I also allow the Landlord to deduct \$50.00 from the Tenant's security deposit for the filing fee, pursuant to Section 72(2) (b) 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: June 30, 2014

Residential Tenancy Branch

