



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting an Order of Possession for cause and a monetary for filing fee costs.

Background and Evidence

Rent is due on the 1st day of each month.

The tenants confirmed receipt of a 1 month Notice to end tenancy for cause. The Notice was given to the tenants on May 12, 2014. The Notice was issued on May 1, 2014 and included an effective date of June 1, 2014.

The Notice indicated that the tenants must apply to cancel the Notice within 10 days of receipt. The Notice indicated that if the tenants did not apply to dispute the Notice within 10 days they were presumed to have accepted the Notice and that they must move out of the unit by the effective date of the Notice, June 1, 2014.

The tenants said that they thought by coming to this hearing they were disputing the Notice. The tenants had read the Notice but failed to understand the instructions included on the Notice; that they must file an application for dispute resolution. The landlord filed an application, requesting the Order of possession. The tenants did not file an application.

Analysis

Section 47(5) of the Act provides:

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*
- (b) must vacate the rental unit by that date.*

As the tenants failed to dispute the Notice within 10 days of May 12 2014; I find, pursuant to section 47(5) of the Act, that they are conclusively presumed to have accepted the Notice and that the tenancy will end on the effective date of the Notice. The tenants said they read the Notice; which clearly directs a tenant to file an application for dispute resolution.

Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to June 30, 2014.

Therefore, based on section 47(5) of the Act and section 55(2)(b) of the Act, I find that the landlord is entitled to an Order of possession that is effective at 1 p.m. on June 30, 2014.

The landlord has been granted an Order of possession that is effective **at 1 p.m. on June 30, 2014**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

As the landlord applied requesting the Order prior to the effective date of the Notice and the time when the tenants could vacate I decline filing fee costs.

Conclusion

The landlord is entitled to an Order of possession.

This decision is final and binding, 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 19, 2014

Residential Tenancy Branch

