



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on August 7, 2014 in accordance with Section 89.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause, pursuant to Sections 47 and 55 of the *Act*.

Background and Evidence

The landlord testified the tenancy began on July 1, 2014 as a month to month tenancy for the monthly rent of \$595.00 due on the 1st of each month with a security deposit of \$297.50 paid.

The landlord submitted into evidence the following relevant documents:

- A copy of a 1 Month Notice to End Tenancy for Cause dated July 27, 2014 with an effective vacancy date of August 26, 2014 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and the tenant has engaged in 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

- A copy of a Proof of Service Notice to End Tenancy stating the tenant was served with the 1 Month Notice to End Tenancy for Cause on July 27, 2014 at 4:55 p.m. The document is signed by both the landlord and the tenant acknowledging the tenant's receipt of the 1 Month Notice to End Tenancy for Cause.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement, if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property or
- b) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

Section 47(4) of the *Act* allows a tenant to dispute a notice to end tenancy under Section 47 within 10 days after the date the tenant receives the notice. Section 47(5) states that if a tenant does not submit an Application for Dispute Resolution seeking to dispute the notice within 10 days the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the notice and must vacate the rental unit by that date.

As the tenant has not submitted an Application for Dispute Resolution seeking to cancel this 1 Month Notice within 10 Days I find the tenant is conclusively presumed to have accepted the tenancy will end on the effective date of the notice and must vacate the rental unit.

Section 53 of the *Act* states if a landlord or tenant gives notice to end a tenancy with an effective date that does not comply with the requirements set out in the relevant section the party is seeking to end the tenancy under the effective date is deemed to be changed to the earliest date permitted under the applicable Section.

I find that the effective date of the 1 Month Notice to End Tenancy for Cause does not comply with the requirements set out under Section 47. However, pursuant to Section 53 I find the correct effective date is August 31, 2014.

Conclusion

I find the landlord is entitled to an order of possession effective **August 31, 2014 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: August 20, 2014

Residential Tenancy Branch

