



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RANDALL NORTH REAL ESTATE SERVICE INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession for cause, and to recover the filing fee.

An agent for the landlord (the "agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") and Application for Dispute Resolution (the "Application") were considered. The agent testified the Notice of Hearing, Application and first package of documentary evidence were served on the tenant by registered mail on September 10, 2014. The landlord provided a registered mail tracking number in evidence and confirmed that the name of the tenant and address matched the name of the tenant and the rental unit address and that the tenant continues to occupy the rental unit. Documents sent by registered mail are deemed served five days after mailing under the *Act*. The agent confirmed that the registered mail package was returned to the landlord. I find the tenant was deemed duly served on the fifth day after mailing, in accordance with the *Act*, as of September 15, 2014. I note that refusal or neglect on the part of the tenant to accept a registered mail package does not constitute grounds for a Review Consideration Application. As the second documentary package was confirmed by the agent as not being served on the tenant, that package was not considered as it was excluded from the hearing as I find that the second documentary evidence package was not properly served on the tenant by the landlord in accordance with the Rules of Procedure.

Issue to be Decided

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

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A periodic, month to month tenancy agreement began on September 1, 2010. Monthly rent of \$600.00 is due on the first day of each month. The tenant paid a \$300.00 security deposit at the start of the tenancy, which the landlord continues to hold.

The agent confirmed service of the 1 Month Notice to End Tenancy For Cause (the "1 Month Notice") dated July 18, 2014, by registered mail on July 18, 2014 at the rental unit, and with an effective vacancy date of August 31, 2014. The tenant did not dispute the Notice. According to the registered mail tracking number and the Canada Post registered mail tracking website, the tenant successfully signed for the 10 Day Notice sent by registered mail on July 21, 2014. The landlord provided a copy of the 1 Month Notice in evidence.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession - I find that the tenant was served with the 1 Month Notice on July 21, 2014, which is the date the tenant accepted the registered mail package from the landlord with the 1 Month Notice in it. The tenant did not dispute the 1 Month Notice within 10 days of receiving the 1 Month Notice. Therefore, **I find** the tenant is conclusively presumed pursuant to section 47 of the *Act*, to have accepted that the tenancy ended on the effective vacancy date of the Notice, August 31, 2014. Accordingly, **I grant** the landlord an order of possession **effective two (2) days** after service on the tenant as the effective vacancy date has already passed and the tenant continues to occupy the rental unit.

The landlord is holding a security deposit of \$300.00 which was paid by the tenant at the start of the tenancy. As the landlord's claim had merit, **I grant** the landlord the recovery of the **\$50.00** filing fee. **I ORDER** the landlord to retain \$50.00 from the tenant's security deposit, in full satisfaction of the recovery of the landlord's filing fee, leaving the tenant's security deposit balance in the amount of \$250.00.

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.

The landlord has been granted the recovery of the \$50.00 filing fee and the landlord has been ordered to retain \$50.00 from the tenant's security deposit, in full satisfaction of the recovery of the landlord's filing fee, leaving the tenant's security deposit balance in the amount of \$250.00.

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: September 30, 2014

Residential Tenancy Branch

