



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, OPC, MNDC, FF

Introduction

This was the hearing of an application by the landlord for a monetary order and an order for possession. The hearing was conducted by conference call. The landlord's named representatives called in and participated in the hearing. The tenants did not attend, although they were served with the application for dispute resolution and Notice of hearing, as well as the amended application. The documents were sent to each of the tenants by registered mail on July 25, 2014 and the amended application was sent by registered mail to each tenant on September 11, 2014

Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is an apartment in Vancouver. The tenancy began May 1st, 2014 for a six month term and thereafter month to month. Rent in the amount of \$1,550.00 is due on the first of each month. The tenants paid a \$775.00 security deposit on April 25, 2014. Since the tenancy began the landlord has given the tenants several notices regarding breaches of the tenancy agreement. A notice was given because the tenants have frequently smoked marijuana on the balcony and have disturbed other tenants in so doing. The landlord gave the tenants a notice because they have improperly blocked open the entrance door to the rental property, thereby jeopardizing the security of the building. The landlord testified that the tenants have been repeatedly late paying rent and have been given several Notices to End Tenancy for unpaid rent.

On July 8, 2014 the landlord served the tenants with a one month Notice to End Tenancy for cause. The Notice to End Tenancy alleged that the tenants have been repeatedly late paying rent and have unreasonably disturbed and jeopardized the health or safety or lawful rights of other occupants. The landlord's representative testified that the tenants have not applied to dispute the Notice to End Tenancy, the landlord recently received a notice of hearing informing the landlord of a hearing set for September 26, 2014, but the landlord has not been served with any application for dispute resolution by the tenants. During the hearing I checked the file number connected with the tenants'

application and found that steps had been taken by the tenants, apparently to apply to cancel a Notice to End Tenancy for unpaid rent, but there was no indication that the tenants made or perfected an application to dispute the one month Notice to End Tenancy that is the subject of this application.

The landlord requested an order for possession pursuant to the Notice to End Tenancy and also sought a monetary award for late fees in the amount of \$20.00 per month for the months of July, August and September.

Analysis

Section 47 (4) of the Act provides that that a tenant may dispute a Notice to End Tenancy for cause by making an application for dispute resolution within 10 days of receiving the Notice to End Tenancy. The Act provides that if the tenants do not dispute the Notice within the required time, they are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The tenants have not filed an application to dispute the one month Notice and they have failed to serve an application upon the landlord as required by the *Residential Tenancy Act* and I find the tenancy has ended pursuant to the Notice to End Tenancy.

Conclusion

The corrected effective date of the Notice to End Tenancy should have been August 31, 2014, but because the landlord has received a rent payment for September, I find that the landlord is entitled to an order of possession effective September 30, 2014 after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

The landlord is entitled to recover late fees totalling \$60.00 and the \$50.00 filing fee for this application, for a total of \$110.00. I order that the landlord retain the sum of \$110.00 from the \$775.00 security deposit that it holds, leaving the balance of the deposit in the amount of \$665.00 to be dealt with in accordance with the *Residential Tenancy 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: September 25, 2014

Residential Tenancy Branch

