



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding British Columbia Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, O

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 two agents for 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 September 12, 2014 at 1:15 p.m. in accordance with Section 89 and that this service was witnessed by a third party. 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 *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on February 21, 2008 for a month to month tenancy for a monthly rent that is based on a percentage of the tenant's income due on the 1st of each month;
- A copy of a 1 Month Notice to End Tenancy for Cause issued on July 4, 2014 with an effective vacancy date of August 31, 2014 citing the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord and the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord submits the tenant was served the Notice by posting it to the rental unit door on July 4, 2014.

The landlord submits that while the tenant has continued to pay rent for the month of September the landlord issued a receipt that indicates the landlord accepted the payment for use and occupancy only.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - i. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- b) The tenant
 - i. Has failed to comply with a material term, and
 - ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

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 there is no evidence before me that the tenant filed an Application for Dispute Resolution to seek to cancel the Notice to End Tenancy I find the tenant is conclusively presumed to have accepted the end of the tenancy.

Conclusion

I find the landlord is entitled to an order of possession effective **two days 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: October 31, 2014

