



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER EVICTION SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 28, 2014, by the Landlords to obtain an Order of Possession for cause and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Landlord's Agent (herein after referred to as Landlord), who provided affirmed testimony.

The Landlord provided documentary evidence that each Tenant was served notice of this application and this hearing by registered mail on December 4, 2014. Canada Post tracking information confirms that Canada Post attempted delivery of the package on December 5, 2014 and that a notice card was left that date to advise the Tenants they could pick up the registered mail. The tracking information also confirms Canada Post gave a second and final notice on December 5, 2014 that the registered mail was available for pick up.

As of December 17, 2014 the Canada Post tracking information confirms that the Tenants still did not pick up the registered mail. Based on this information, I find that the Tenants were provided with 3 opportunities to receive the registered mail and they did not make an attempt to retrieve it. I find this to be a deliberate effort on the part of each Tenant to avoid service and I find the Tenants were sufficiently served with Notice of this hearing, pursuant to Section 71 of the *Act*. Therefore, I proceeded in absence of the Tenants.

Issue(s) to be Decided

1. Have the Landlords proven entitlement to an Order of Possession?

Background and Evidence

The Landlord testified that the parties entered into a tenancy agreement that began on June 1, 2014. Rent is payable on the first of each month in the amount of \$1,800.00 and on May 25, 2014, the Tenants paid \$900.00 as the security deposit.

The Landlord said they served the Tenants with a 1 Month Notice for cause on November 5, 2014, by posting the Notice to the Tenant's door. The Landlords have not received an application from the Tenants to dispute the Notice.

The 1 Month Notice was provided in evidence and was issued pursuant to Section 47(1) of the Act listing the following reasons:

- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonable disturbed another occupant or the landlord
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - Put the landlord's property at significant risk
- Tenant has engaged in illegal activity that has or is likely to
 - Damage the landlord's property
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
 - Jeopardize a lawful right or interest of another occupant or the landlord

The Landlord testified that the Tenants continue to reside in the rental unit, and as of their last communication with the owner on December 15, 2014, the Tenants had not paid rent for December 2014.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenants who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

Upon review of the 1 Month Notice to End Tenancy issued November 5, 2014, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenants in a manner that complies with the Act. The effective date of the Notice is **December 31, 2014**.

Section 47(4) of the Act stipulates that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

In this case the Tenants would have had to file their application for dispute no later than November 18, 2014. At the time the Landlords filed their application for an Order of Possession on November 28, 2014, the Tenants had not made application to dispute the 1 Month Notice.

Section 47(5) of the Act stipulates that 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.

The Landlords have succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The Landlords have been granted an Order of Possession effective **December 31, 2014 at 1:00 p.m. upon service** to the Tenants. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlords may withhold **\$50.00** from the Tenants' security deposit as full compensation of the onetime award to recover the filing fee.

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: December 30, 2014

Residential Tenancy Branch

