



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPT, FF

Introduction

This hearing was scheduled in response to the tenant's application for an order of possession / and recovery of the filing fee. While the tenant called into the hearing and gave affirmed testimony, the landlord did not appear.

The tenant testified that she served the landlord with her application for dispute resolution and the notice of hearing (the "hearing package") by way of registered mail at the Post Office on November 03, 2014. Evidence provided by the tenant includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is located in the basement portion of a house. The landlord resides in the upstairs portion of the house.

There is no written tenancy agreement in evidence for this tenancy which began in January 2008. Monthly rent of \$950.00 is due and payable in advance on the first day of each month. The details related to any security deposit that may have been collected by the landlord are unclear.

The tenant testified that the circumstances surrounding the dispute have changed since the time when she filed her application for dispute resolution on November 03, 2014. The tenant testified that her present concern is a 2 month notice to end tenancy for landlord's use of property issued by the landlord. A copy of the notice is not before me in evidence. In particular, the tenant testified that she thinks the landlord does not understand the statutory provisions which impact on the effective date of the notice, and

that unless the landlord understands these provisions, there will be a further dispute between the parties in future.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.gov.bc.ca/landlordtenant

Based on the affirmed / undisputed testimony of the tenant, I find that the nature of the dispute as identified in the tenant's application for dispute resolution has changed, even while there is no amended application for dispute resolution before me. Accordingly, the original application for an order of possession in favour of the tenant, and recovery of the filing fee is hereby dismissed.

As to the tenant's current concern, the attention of the parties is drawn to the following particular sections of the Act:

Section 88: **How to give or serve documents generally**

Section 90: **When documents are considered to have been received**

Further, section 49 of the Act speaks to **Landlord's notice: landlord's use of property**, and provides in part as follows:

49(2) Subject to section 51 [*tenant's compensation: section 49 notice*], a landlord may end a tenancy for a purpose referred to in subsection (3), (4), (5) or (6) by giving notice to end the tenancy effective on a date that must be

- (a) not earlier than 2 months after the date the tenant receives the notice,
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (c) if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

Further, the attention of the parties is drawn to section 50 of the Act which speaks to how **Tenant may end tenancy early following notice under certain sections**, and section 51 of the Act which addresses **Tenant's compensation: section 49 notice**.

In addition to information available on the website identified above, Information Officers can be contacted by telephone as follows:

Lower Mainland: 604-660-1020
Victoria: 250-387-1602
Elsewhere in BC: 1-800-665-8779

Conclusion

Following from all of the above, the tenant's application is hereby dismissed.

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 09, 2014

Residential Tenancy Branch

