



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LLA INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on January 08, 2015 to obtain an Order of Possession for cause.

The hearing was conducted via teleconference and was attended by the Landlord who gave affirmed testimony.

The Landlord provided evidence that the Tenant was personally served notice of this application and this hearing on January 8, 2015, in the presence of the Onsite Manager. A second copy was sent to the Tenant by Registered Mail on January 9, 2015.

Canada Post tracking information confirms that Canada Post attempted delivery of the package on January 13, 2015, and that a notice card was left that date to advise the tenant they could pick up the registered mail. The tracking information also confirms Canada Post gave a second and final notice on January 19, 2015, that the registered mail was available for pick up. As of January 30, 2015, the Canada Post tracking information confirms that the Tenant still did not pick up the registered mail. Common Law has established that a party cannot avoid service by refusing to accept or pick up registered mail.

Based on the Landlord's submissions, as noted above, I find that the Tenant was sufficiently served with Notice of this hearing, pursuant to Section 89 of the *Act*, and I proceeded in the absence of the Tenant.

Issue(s) to be Decided

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

Background and Evidence

The Landlord testified that the parties entered into a written month to month tenancy agreement that began September 1, 2012. Rent is payable on the first of each month in

the amount of \$345.00. On or around September 1, 2012, the Tenant paid \$172.50 as the security deposit plus \$172.50 as the pet deposit.

The Landlord submitted that the Tenant has been allowing additional occupants in his unit and has had constant traffic in and out of his rental unit, which is indicative of illegal drug trafficking behaviour. The Landlord testified that they had recently installed a security fence and gate and that the Tenant has been giving the access code to his visitors.

The Landlord provided in his documentary evidence a copy of an email received from the RCMP which confirmed the Landlord's submissions as well as a copy of the tenancy agreement and 1 Month Notice dated December 24, 2014.

The Landlord submitted that the 1 Month Notice was served upon the Tenant, in person on December 24, 2014 and a second copy was left in the Tenant's mailbox on the same date. The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- Tenant has allowed an unreasonable number of occupants in the unit/site
- Tenant has engaged in illegal activity that has or is likely to
 - 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 Tenant continues to reside in the rental unit and has not disputed the Notice. As such, they are requesting an Order of Possession as soon as possible.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant 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 December 24, 2014, I find the Notice was served upon the Tenant in a manner that complies with the Act. The effective date of the Notice automatically corrects to **January 31, 2015**, pursuant to section 53 of the Act.

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 Tenant would have had to file their application for dispute no later than January 3, 2015. At the time the Landlord filed their application for an Order of Possession on January 8, 2015, the Tenant 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. Accordingly, I grant the Landlord's application.

Conclusion

The Landlord has been granted an Order of Possession effective **2 Days upon Service** to the Tenant. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does 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.

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: January 30, 2015

Residential Tenancy Branch

