



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

aA matter regarding PACIFIC EDGE PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, MNR, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for an Order of Possession for cause, a Monetary Order for unpaid rent, and to recover the filing fee for the cost of the Application.

An agent for the Landlord (the “Landlord”) appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing.

There was no appearance for the Tenants or any submission of evidence prior to the hearing.

The Landlord testified that a copy of the Application and the Notice of Hearing documents were served to each Tenant by registered mail on December 5, 2014. The Landlord provided the Canada Post tracking numbers as evidence for this method of service.

Section 90(a) of the *Residential Tenancy Act* (the “Act”) states that a document served by mail is deemed to have been received five days after it is mailed. A party cannot avoid service by failing or neglecting to pick up mail and this reason alone cannot form the basis for a review of this decision.

Based on the undisputed evidence of the Landlord, I find that the Tenants were served notice of this hearing in accordance with Section 89(1) (c) of the Act.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to unpaid rent?

Background and Evidence

The Landlord testified that this tenancy started on October 2, 2014 for a fixed term of one year. A written tenancy agreement was completed but not supplied in written evidence.

The Landlord testified that rent for this tenancy was payable in the amount of \$700.00 on the first day of each month. The Landlord also testified that a security deposit was requested from the Tenants but none was paid. The Landlord also became aware that the Tenants had a pet in the rental suite which was prohibited in this tenancy.

As a result, the Landlord served the Tenants with a 1 Month Notice to End Tenancy for Cause (the "Notice") for a number of reasons, the main one of which was that the Tenant had not paid a security deposit after 30 days of it being required by the tenancy agreement.

The Landlord served the Notice to the Tenant on October 8, 2014 by posting it to the Tenant's door. The Notice was provided in written evidence and shows a vacancy date of November 15, 2014. The Landlord now seeks an Order of Possession to end the tenancy.

The Landlord testified that the Tenants paid prorated rent for October 2014. However, the Tenants have failed to pay rent for November and December 2014 and for January 2015 in the amount of \$2,100.00 which the Landlord also seeks to recover.

Analysis

I find that the contents of the approved Notice complied with Section 52 of the Act and that it was served to the Tenant on October 8, 2014 by posting it to the Tenant's door.

Section 47(2) requires that the time period the Notice becomes effective must be for a period of one full rental month. As a result, the effective vacancy date of the Notice is corrected from November 15 to November 30, 2014 pursuant to Section 53 of the Act.

Sections 47(4) and (5) of the Act explain that if a Tenant fails to make an Application to dispute the Notice within ten days after receiving the Notice, then they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice.

The Tenants failed to make an Application to dispute the Notice. Therefore, I find that the Tenants are conclusively presumed to have accepted the Notice and must move out

of the rental suite. As the Tenants have failed to pay rent and the effective vacancy date of the Notice has now passed, the Landlord is entitled to an Order of Possession effective two days after service on the Tenant.

In relation to the Landlord's monetary claim, I accept the undisputed oral evidence of the Landlord that the Tenants have failed to pay the Landlord \$2,100.00 in rental arrears.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenants the \$50.00 filing fee for the cost of this Application, pursuant to Section 72(1) of the Act.

Therefore, the total amount payable by the Tenants to the Landlord is \$2,150.00.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **two days after service on the Tenants**. This order may then be filed and enforced in the Supreme Court as an order of that court if the Tenants fail to vacate the rental suite.

I also grant the Landlord a Monetary Order pursuant to Section 67 of the Act in the amount of **\$2,150.00**. This order must be served on the Tenants and may then be enforced in the Provincial Court (Small Claims) 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 06, 2015

Residential Tenancy Branch

