



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Baywest Management Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC; MND; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for damages; and to recover the cost of the filing fee from the Tenant.

The Landlord's agents gave affirmed testimony at the Hearing.

The Landlord's agent BT testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed to the Tenant, via registered mail, to the rental unit on December 9, 2014. BT provided the tracking numbers for the registered documents. BT also testified that a second package of documentary evidence was mailed to the Tenant, by registered mail, on December 23, 2014.

Based on BT's affirmed testimony, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence. The teleconference remained open for 18 minutes.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession and a monetary award for damages?

Background and Evidence

The Landlord's agents gave the following testimony:

A copy of the tenancy agreement was provided in evidence. This tenancy began on April 1, 2014. Monthly rent is \$630.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$315.00 on March 28, 2014.

On October 17, 2014, the Landlord's agent served the Tenant with a One Month Notice to End Tenancy for Cause, by mailing the Notice to the Tenant door at the rental unit. Enclosed with the Notice was a letter explaining that the Tenant must move out of the

rental unit by 1:00 p.m., November 30, 2014. A copy of the Notice and the letter were provided in evidence.

The Tenant has not moved out of the rental unit and has not paid anything towards occupancy for the month of January, 2015.

BT testified that the Tenant's father visited the Tenant often and that he damaged a door while "jimmying" a lock. This was witnessed by other occupants in the building. The Landlord provided a copy of a receipt for repairs in the amount of \$106.00 and letters to the Tenant dated September 3 and 22, 2014, warning her about guest conduct and requesting payment for the damage. The Tenant has not paid for the damage to the door.

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by mail. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected five days after mailing, in this case October 22, 2014. The Tenant has not filed an Application to cancel the Notice. Therefore, pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on November 30, 2014. I find that the Tenant is overholding and that the Landlord is entitled to an Order of Possession.

Tenants are responsible for the actions of their guests. I find that the Landlord has provided sufficient evidence that her father damaged a door and that the cost to repair the door is **\$106.00**. I allow this portion of the Landlord's claim.

The Landlord has been successful in its application and is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply a portion of the security deposit towards satisfaction of the Landlord's monetary award. The remainder of the security deposit, in the amount of \$159.00 must be applied in accordance with the provisions of the Act.

Conclusion

I hereby grant the Landlord an Order of Possession effective 2 days after service of the Order upon the Tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord has established a monetary award for damages and recovery of filing fees in the total amount of **\$156.00**. The Landlord may deduct this amount from the Tenant's security deposit. The remainder of the security deposit, in the amount of \$159.00 must be applied in accordance with the provisions of the Act.

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 08, 2015

Residential Tenancy Branch

