



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Warrington PCI Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPC MNSD FF O

Introduction

This hearing dealt with the landlord's application for an order of possession and an order to retain the security deposit.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on December 4, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on December 9, 2014, and I proceeded with the hearing in the absence of the tenant.

During the hearing the landlord agreed to withdraw the portion of their application regarding the security deposit.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

On September 8, 2014 the landlord served the tenant with a notice to end tenancy for cause. The tenant did not apply to cancel the notice. The landlord stated that on October 20, 2014 the tenant called the landlord and requested a one month extension on his eviction so that he could return to the unit and clear out his belongings. The landlord sent the tenant a letter confirming that they would give him a one month extension. The tenant did not remove his belongings or give the landlord any indication whether he planned to return or not.

The Landlord's evidence included the following:

- a copy of the Notice to End Tenancy for Cause, issued on September 8, 2014, with an effective vacancy date of October 31, 2014,

- testimony that the tenant was served the Notice to End Tenancy by registered mail sent on September 8, 2014; and
- a copy of the Landlord's Application for Dispute Resolution, filed December 2, 2014, in which the landlord indicated that they had granted the tenant a one month extension but as of the filing date the tenant had still not vacated the unit.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 13, 2014.

I accept the evidence before me that the tenant did not apply to cancel the notice to end tenancy and did not vacate the unit. I find that the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on November 30, 2014. The landlord is therefore entitled to an order of possession.

The landlord is also entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the landlord an order under section 67 for the balance due of \$50. This order may be filed in the Small Claims 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 5, 2015

Residential Tenancy Branch

