



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR; FF

Introduction

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

The Landlord gave affirmed testimony at the Hearing. The Tenants did not sign into the teleconference, which remained open for 15 minutes.

The Landlord testified that he served the Tenants with the Notice of Hearing documents and copies of his documentary evidence by hand delivering the documents to the male Tenant at the rental unit on January 2, 2015 at 7:00 p.m.

Based on the Landlord's affirmed testimony, I am satisfied that the both of the Tenants were duly served with the Notice of Hearing documents, pursuant to the provisions of Section 89(2)(a) and (c). The Hearing proceeded in the Tenants' absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

The Landlord gave the following testimony:

On December 3, 2014, the parties attended a hearing which was convened to consider the Tenants' application to cancel a Notice to End Tenancy for Cause. The Decision was rendered on December 8, 2014, dismissing the Tenants' application. A copy of the Decision was provided in evidence.

The Landlord stated that he forgot to ask for an Order of Possession at the hearing. The Landlord testified that the Tenants are still living at the rental unit. He stated that the parties have reached an agreement that the Tenants will vacate the rental unit on January 31, 2015.

Analysis

The arbitrator's Decision of December 8, 2014, dismissed the Tenants' application to cancel the Notice to End Tenancy. The Decision provides that the Notice was served on October 22, 2014, by posting it to the door of the rental unit. I find that the effective date of the end of tenancy was December 1, 2014, and that the Tenants are overholding. I find that the Landlord is entitled to an Order of Possession. The Landlord seeks an end of tenancy date of January 31, 2015, and I hereby provide him with an Order of Possession effective January 31, 2015, at 1:00 p.m.

Section 55(1) of the Act provides:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

In this case, the Landlord forgot to request an Order of Possession at the hearing on December 3, 2014. Therefore, I find that the Landlord is not entitled to recover the cost of the filing fee from the Tenants.

Conclusion

I hereby grant the Landlord an Order of Possession effective 1:00 p.m., January 31, 2015, for service upon the Tenants. This Order may be filed in the Supreme Court of British Columbia 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 22, 2015

Residential Tenancy Branch

