



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL & FF

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the two month Notice to End Tenancy was personally served on the Tenant on November 30, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the tenant on January 29, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into an oral tenancy agreement that provided that the tenancy would start on October 1, 2014 and continue on a month to month basis. The rent is \$650 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$300 at the start of the tenancy.

On February 10, 2015 the landlord obtained an order for the early end of the tenancy and an Order for Possession.

Analysis - Order of Possession:

I determined the landlord is entitled to an Order for Possession. The landlord served a two month Notice to End Tenancy on the tenant on November 30, 2014 setting the effective date of the end of tenancy for January 31, 2015. Policy Guideline 37 includes the following statement:

“Notice to End

Application for Arbitration Filed After Effective Date

An arbitrator may not extend the time limit to apply for arbitration to dispute a Notice to End if that application for arbitration was filed after the effective date of the Notice to End.

For example, if a Notice to End has an effective date of 31 January and the tenant applies to dispute said Notice to End on 1 February, an arbitrator has no jurisdiction to hear the matter ***even where the tenant can establish grounds that there were exceptional circumstances***. In other words, once the effective date of the Notice to End has passed, there can be no extension of time to file for arbitration.”

The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. **Accordingly, I granted the landlord an Order for Possession on 2 days notice. I further ordered that the tenant pay to the landlord the sum of \$50 for the cost of the filing fee such sum may be deducted from the security deposit.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: February 11, 2015

Residential Tenancy Branch

