



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR OPC FF

Introduction

This hearing dealt with the landlord's application for an order of possession pursuant to a notice to end tenancy for unpaid rent and an order of possession pursuant to a notice to end tenancy for cause.

The hearing first convened on June 15, 2015. On that date the parties confirmed that the landlord did not serve the tenants with her application, notice of the hearing and evidence until June 5, 2015. The tenants stated that they wanted sufficient time to prepare their response, and on that basis I adjourned the hearing.

The hearing reconvened on August 19, 2015. The landlord and the tenants participated in the teleconference hearing on both dates.

At the reconvened hearing, the tenants acknowledged that they did not serve their evidence on the landlord. I therefore did not admit or consider the tenants' documentary evidence. Neither party raised any further issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their admissible evidence. I have reviewed all testimony and other admissible evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy for unpaid rent valid?
Is the notice to end tenancy for cause valid?

Background and Evidence

The landlord stated that on March 27, 2015 the tenants were served with a notice to end tenancy for unpaid rent and a notice to end tenancy for cause. The landlord's evidence included copies of the notices, both issued on March 27, 2015, and a proof of service document indicating that an agent of the landlord personally served both notices to the tenants on that date. The male tenant signed the proof of service document to indicate he had received both notices.

The landlord confirmed that she received the outstanding rent of \$25.00 on March 30, 2015.

The tenants provided unreliable, contradictory evidence regarding service of the notices to end tenancy. The female tenant first stated that she went in person to the Residential Tenancy office and was told that she did not have to dispute the notice because she had paid the rent. The tenants then stated that they were never served with either notice, only the proof of service document. The female tenant first said that she alone answered the door when the landlord's agent attended to serve documents, and shortly thereafter she stated that both she and her husband answered the door. The tenants eventually acknowledged that they received the notice to end tenancy for unpaid rent, but denied receiving the notice to end tenancy for cause. When I pointed out that the proof of service document indicated both notices were received and signed for by her husband, the female tenant then stated that her husband must have signed for it when she was not there.

Analysis

I find that the notice to end tenancy for unpaid rent is not valid, as the tenants paid the outstanding amount of \$25.00 within five days of receiving the notice.

I find that the notice to end tenancy for cause was served on the tenants. The tenants' evidence regarding service was not reliable, and the landlord provided service of evidence. The tenants did not dispute the notice for cause, and they are therefore conclusively presumed to have accepted that the tenancy ended on April 30, 2015, the effective date of the notice.

The landlord stated that the tenants have paid their rent for August 2015. I therefore set the effective date of the order of possession for August 31, 2015.

As the landlord's application for an order of possession was successful, she is entitled to recovery of the filing fee for the cost of her application.

Conclusion

I grant the landlord an order of possession effective August 31, 2015. The tenants must be served with the order of possession. Should the tenants 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 \$50.00. 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: August 19, 2015

Residential Tenancy Branch

