



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MOHAMED H. BENCHERIF
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, for compensation for loss or damage under the Act, regulations or tenancy agreement and to recover the filing fee.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on September 3, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

At the start of the conference call the Landlord said the rent has been paid so he is withdrawing the request for compensation of \$1,500.00 for loss rental income.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on April 15, 2014 as a 1 year fixed term tenancy with an expiry date of April 15, 2015 and then continued on a month to month basis. Rent is \$750.00 per month payable in advance of the 1st day of each month. The Tenant paid a partial security deposit of \$375.00 at the start of the tenancy.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated July 31, 2015 by personal delivery to the Tenant on July 31, 2015. The Notice to end tenancy has an effective vacancy date of August 31, 2015 on it. The Landlord continued to say he issued the Notice because the Tenants do not have control over the guests they have in the rental unit. Further the Property Manager said the Tenants have looked after a dog that has misbehaved and has caused the post office to stop delivering the

mail to the rental complex. The Landlord said he wants to end the tenancy as soon as possible.

The Tenant said he has not made an application to dispute the Notice to End Tenancy or the Landlord's application, but he would like to continue the tenancy. The Tenant said he is trying to get control of the situation and he has some financial resources coming to him that he will use to make things right. The Tenant asked the Landlord to continue the tenancy.

The Landlord said he did not want to continue the tenancy and the Landlord requested an Order of Possession for as soon as possible.

The Tenant asked the Landlord if they could stay in the unit until January 1, 2016. The Landlord said no.

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on July 31, 2015. Consequently, the Tenant would have had to apply to dispute the Notice by August 10, 2015.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$50.00 for this proceeding from the Tenant. I order the Landlord to retain \$50.00 from the Tenants' security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenants have been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: November 04, 2015

Residential Tenancy Branch

