



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Kinsmen Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute codes OPQ, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant did not appear although she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on October 28, 2015.

Issues

Is the landlord entitled to an order of possession?

Background and Evidence

This tenancy began on July 4, 2007. The market rent is \$1,000.00 due in advance on the first day of each month. The tenant paid a security deposit of \$500.00 at the start of the tenancy. The rental unit was rented to the tenant on the basis that the unit would be occupied by the tenant and her child. The tenant received a rent subsidy based on her occupancy of the unit with her son. The landlord's representative testified that the landlord learned in May, 2015 that the tenant's son ceased to live in the rental unit. The landlord requested that the tenant provide a letter or other documents to show that she was taking steps to be reunited with her son and have custody returned to her. The landlord served the tenant with a two month Notice to End Tenancy dated May 27, 2015 by posting the Notice to the door of the rental unit. The Notice to End Tenancy was given because the tenant no longer qualified for a subsidized rental unit. On September 3, 2015 the landlord learned that the tenant's relative had been granted guardianship of the tenant's son and the child had been in her care since January, 2015. The landlord then proceeded with an application for dispute resolution because the tenant has not taken steps to have her son return to live with her in the rental unit. The Notice to End Tenancy required the tenant to move out of the rental unit by July 31, 2015. The

landlord's representative requested an order for possession pursuant to the Notice to End Tenancy. She requested that the order be effective December 31, 2015.

Analysis

Section 49.1 (5) of the Act provides that upon receipt of a two month Notice to End Tenancy given because the tenant does not qualify for subsidized rental unit, the tenant may dispute the Notice within 15 days after she receives it by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does not file an application to dispute the Notice to End Tenancy, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The effective date of the Notice to End Tenancy has passed.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective December 31, 2015, after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The landlord is entitled to recover the \$50.00 filing fee for this application and the landlord may deduct the sum of \$50.00 from the security deposit that it holds.

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: December 22, 2015

Residential Tenancy Branch

