



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COMPLETE RESIDENTIAL PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing by conference call and gave affirmed testimony. The tenant did not submit any documentary evidence and confirmed receipt of two of the landlord's three documentary evidence packages. As such, I find that the landlord's third submission of documentary evidence is excluded as the tenant has not received it and that it was filed late. I find that the landlord has properly served the tenant with the notice of hearing package and the submitted documentary evidence.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to a monetary order for recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of both parties, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began on May 11, 2015 on a fixed term tenancy ending on May 31, 2016 as shown by the submitted copy of the signed tenancy agreement dated May 11, 2015. The monthly rent is \$775.00 payable on the 1st day of each month and a security

deposit of 387.00 was paid. Both parties confirmed that the signed tenancy agreement provides for a \$387.50 pet damage deposit which has not been paid by the tenant.

The landlord stated that the tenant was served with a 1 Month Notice to End Tenancy for Cause dated October 21, 2015 by posting to the rental unit door on October 22, 2015. The notice displays an effective end of tenancy date of November 30, 2015 and one reason for cause.

Residential Tenancy Act only: security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

The landlord stated that the tenant moved in with a pet and was informed that a pet damage deposit was required. The landlord authorized the pet as part of the signed tenancy agreement as shown in the handwritten notations on the signed tenancy agreement with both the landlord's and the tenant's initials. The landlord stated that numerous verbal warnings were given to the tenant until a warning letter dated October 21, 2015 was given to the tenant. The letter warns the tenant that a pet damage deposit remained unpaid and must be paid no later than October 30, 2015. The letter was accompanied with the 1 Month Notice dated October 21, 2015.

The tenant confirmed that as of the date of the hearing that a pet damage deposit has not been paid. The tenant stated that she was not served with the 1 Month Notice dated October 21, 2015 and that because of a disability she was unable to read any of the landlord's submitted documents. The tenant stated that she has not sought out any assistance from anyone to read the documentary evidence. The tenant also stated that she has attempted to partially pay the pet damage deposit after the 1 Month Notice was received.

The landlord's witness stated that the tenant was given numerous verbal warnings as well as cautions that she must deal with the pet damage deposit. The landlord stated that the letter and the notice were explained to the tenant verbally. The landlord disputed the tenant's claim that she did not attempt to partially pay the pet damage deposit.

Analysis

Pursuant to section 47 of the Residential Tenancy Act, a landlord may end a tenancy if the tenant has failed to pay a security or pet damage deposit within 30 days as required by the tenancy agreement.

Both parties have confirmed that a pet damage deposit was required at the beginning of the tenancy as per the submitted copy of the signed tenancy agreement dated May 11, 2015. The tenant confirmed in her direct testimony that a pet damage deposit was not paid. I accept the landlord's evidence over that of the tenant that the tenant entered into a signed tenancy agreement in which a pet damage deposit was required. I also accept the landlord's direct testimony that the tenant had been verbally warned numerous times. I find on a balance of probabilities that the landlord did serve the tenant with the 1 Month Notice dated October 21, 2015 by posting it to the rental unit door with a witness. The tenant is deemed served with the notice 3 days later as per the Act.

Section 47 (4) of the Act states,

A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

Although the tenant has stated that she has a disability in reading documents, I find that upon being served with the 1 Month Notice following the numerous verbal warnings, the tenant failed to act responsibly in seeking assistance in reviewing the documents and has failed to file an application to dispute the notice within the allowed time frame.

Section 47 (5) of the Act states,

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

As such, I find that the tenant having received the 1 Month Notice dated October 21, 2015 is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice of November 30, 2015. The landlord is granted an order of possession.

Having been successful the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application is granted. The 1 Month Notice dated October 21, 2015 is upheld. The landlord is issued an order of possession.

The landlord is provided with a formal copy of an order of possession. The tenant must be served with this order. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

The landlord is granted a monetary order of \$50.00 for recovery of the filing fee. The tenant must be served with this order. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 28, 2016

Residential Tenancy Branch

