



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt was convened as the result of the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlords applied for an order of possession for the rental unit pursuant to a 1 Month Notice to End Tenancy for Cause ("Notice") issued to the tenant.

The listed landlord attended the hearing; the tenant did not attend.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on December 22, 2015. The landlord supplied the receipt showing the tracking number of the registered mail.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlords' application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, photographic, and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit?

Background and Evidence

The landlord submitted that the tenant, the landlords' son, first moved into the rental unit with his spouse in approximately 2006 and that the tenant and his spouse separated approximately 3 years ago. At that time, the landlords agreed the tenant would remain in the rental unit and that the monthly rent would be \$400.00.

The landlord submitted evidence that the tenant was served the Notice, dated November 22, 2015, via registered mail on that date, listing an effective end of tenancy date of January 31, 2016.

The Notice served on the tenant sets out that the tenant had ten (10) days to file an application for dispute resolution in dispute of the Notice. It also sets out that if the tenant did not file such application within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice, in this case January 31, 2016.

The causes as stated on the Notice alleged that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant or the landlord, put the landlord's property at significant risk, has caused extraordinary damage to the rental unit, and has not done required repairs of damage to the rental unit.

The landlord's relevant evidence included a copy of the Notice and documentary and photographic evidence supporting the causes listed on the Notice.

I have no evidence before me that the tenant has filed an application in dispute of the Notice.

Analysis

I have reviewed all the evidence and accept that the tenant has been served with the Notice as declared by the landlord. Absent evidence to the contrary, the Notice was deemed received by the tenant five (5) days after the Notice was served via registered mail on November 22, 2015, pursuant to section 90 of the Act. I also find no evidence that the tenant applied to dispute the Notice.

As such, I therefore find the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and that

the landlords are entitled to an order of possession for the rental unit on that effective date of January 31, 2016.

I grant the landlords a final, legally binding order of possession for the rental unit, pursuant to section 55(2)(a) of the Act, and it is enclosed with the landlords' Decision. If the tenant fails to vacate the rental unit pursuant to the terms of the order after being served with it, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords' application for an order of possession for the rental unit is granted.

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 21, 2016

Residential Tenancy Branch

