



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied an order of possession for the rental unit pursuant to a 1 Month Notice to End Tenancy for Cause (the "Notice") and for recovery of the filing fee paid for this application.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and the tenant confirmed not providing his digital evidence to the landlord, as required, and I therefore have excluded that evidence from consideration.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral 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 and for recovery of the filing fee paid for this application?

Background and Evidence

The undisputed evidence was that this tenancy began on February 1, 2014, monthly rent began at \$345.00, and was raised to \$355.00 when the tenant moved to a larger bedroom. The rental unit was one of a 5 bedroom home. The landlord submitted a copy of the written tenancy agreement.

The landlord submitted that she served the Notice, dated October 17, 2015, to the tenant, but was unclear the method, as she gave differing versions. The landlord submitted that she served the tenant on or about October 17, 2015, via registered mail, by slipping it under the door, or by handing the Notice to another tenant. The Notice listed an effective end of tenancy date of November 30, 2015.

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 November 30, 2015.

The cause listed on the Notice alleged that the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord's relevant evidence included a copy of the Notice.

In response, the tenant submitted that the landlord slipped the Notice under his door and that this was not a proper method of service under the Act. The tenant did confirm receiving the Notice and not filing an application in dispute.

Analysis

I have reviewed all the evidence and accept that the tenant was served with the Notice, as the tenant confirmed he received it when it was slipped under his door.

Although section 88 of the Act does not recognize placing documents under a door as an acceptable method of delivery of documents, I order that the delivery of the Notice to the tenant sufficiently served, pursuant to section 71(2)(c) of the Act, as the tenant confirmed he had received it. Absent evidence to the contrary, I deem the date the tenant received the Notice was on October 17, 2015, the date on the Notice.

As the tenant did not file an application in dispute of the Notice, 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 landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I grant the landlord 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 landlord's 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.

I also grant the landlord recovery of the filing fee of \$50.00, pursuant to section 72(1) of the Act. I therefore grant the landlord a final, legally binding monetary in the amount of \$50.00, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

At the landlord's choosing, she may redeem her monetary award by deducting \$50.00 from the tenant's security deposit and in that case, the monetary order is of no force or effect.

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 22, 2016

Residential Tenancy Branch

