



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*") to obtain an order of possession based on a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated December 9, 2015, and to recover the cost of the filing fee.

The landlord and tenant attended the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that he received and reviewed the landlord's application and original documentary evidence package prior to the hearing. The tenant also confirmed that he did not submit any evidence in response to the landlord's application. I find the tenant was served in accordance with the *Act* as a result.

Issues to be Decided

- Is the landlord entitled to an order of possession for cause under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on November 14, 2015 and was scheduled to revert to a month to month tenancy after January 31, 2016. Monthly rent in the amount of \$750.00 is due on the first day of each month.

According to online registered mail tracking information provided, the tenant signed for and accepted the 1 Month Notice dated December 9, 2015 on December 31, 2015. The tenant confirmed that he did not apply to dispute the 1 Month Notice. The effective vacancy date listed on the 1 Month Notice is January 31, 2016.

The tenant continues to occupy the rental unit and the landlord is seeking an order of possession based on the undisputed 1 Month Notice, and the recovery of the cost of the filing fee.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – The tenant confirmed that he received the 1 Month Notice and has not disputed the 1 Month Notice. Pursuant to section 47 of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 1 Month Notice which was January 31, 2016.

The tenant continues to occupy the rental unit. Pursuant to section 55 of the *Act*, I grant the landlord an order of possession **effective two (2) days** after service on the tenant. I find the tenancy ended on January 31, 2016 and that the tenant has been overholding the rental unit since that date.

As the landlord's application had merit, I grant the landlord the recovery of the **\$50.00** filing fee. Pursuant to section 67 of the *Act*, I grant the landlord a monetary order in the amount of **\$50.00** as full recovery of the cost of the filing fee.

Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order pursuant to section 67 of the *Act* in the amount of \$50.00 as recovery of the cost of the filing fee. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 10, 2016

Residential Tenancy Branch

