



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cornerstone Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, FF

Introduction

In response to the landlord's application for an order of possession / and recovery of the filing fee, this hearing was scheduled to commence by way of telephone conference call at 9:00 a.m. on April 04, 2016. The landlord's agent (the "landlord") was present at that time and gave affirmed testimony. However, as the tenant had still not appeared by 9:10 a.m. the call was then ended.

The landlord testified that the "landlord application for dispute resolution" was personally served on the tenant on March 08, 2016, and that the "notice of a rescheduled dispute resolution hearing" was personally served on March 21, 2016. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was duly served in accordance with section 89 of the Act which addresses **Special rules for certain documents**.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on August 01, 2013. Monthly rent is due and payable in advance on the first day of each month. The current monthly rent is \$717.00. A security deposit of \$350.00 was collected.

Following certain complaints from other residents in the building, pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated February 15, 2016. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on

the notice by when the tenant must vacate the unit is March 31, 2016, and reasons identified in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

While the tenant did not file an application to dispute the notice, the landlord was presently unable to confirm whether the tenant has now vacated the unit.

Analysis

Section 47 of the Act provides, in part:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,...

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property,...

(h) the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find the tenant was served with a 1 month notice to end tenancy for cause dated February 15, 2016. The tenant did not file an application to dispute the notice within the 10 day period available for doing so after receiving the notice. The tenant is therefore conclusively presumed pursuant to section 47(5) of the Act, to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**. As the landlord has succeeded with the principal aspect of the application, I order that the landlord may withhold **\$100.00** from the security deposit in order to recover the filing fee.

As the end of tenancy nears, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord may recover the **\$100.00** filing fee by way of withholding that amount from the security deposit.

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: April 04, 2016

Residential Tenancy Branch

