



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 the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

At the outset of the hearing the tenant asked for an adjournment because she secured legal counsel yesterday. The tenant also stated that she is in the process of moving out of the rental unit.

Residential Tenancy Branch Rule of Procedure #6.4 outlines the criteria I must consider before granting an adjournment. The Rule lists the following considerations:

1. Whether the purpose for which the adjournment is sought will contribute to the resolution of the matter;
2. Whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
3. The degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
4. The possible prejudice to each party.

As the tenant is moving out of the rental unit today and the matter before me is the landlord's request for an order of possession I find that an adjournment will not contribute to the resolution of this matter.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord has submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued on April 7, 2016 with an effective vacancy date of May 8, 2016 citing the tenant is repeatedly late paying rent; the tenant has allowed an unreasonable number of occupants and the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The Notice stipulates the tenant has 10 days to file an Application for Dispute Resolution if she wished to dispute the Notice and have it cancelled. The Notice also states that if the tenant does not submit an Application for Dispute Resolution she is deemed to have accepted the end of the tenancy and must vacate the rental unit.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant is repeatedly late paying rent;
- b) There are an unreasonable number of occupants in a rental unit;
- c) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

Section 47(4) allows a tenant who receives a notice under Section 47 to apply to dispute the notice within 10 days of receiving it. Section 47(5) states that if a tenant does not file an Application for Dispute Resolution seeking to cancel such a notice the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

As the tenant did not dispute the Notice within the 10 days allowed I find the tenant is conclusively presumed to have accepted the end of the tenancy.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$100.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: June 01, 2016

Residential Tenancy Branch