



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This was an application for an Order for Possession pursuant to a Notice to end a Tenancy for Cause dated April 25, 2016 with an effective date of May 31, 2016. Both the landlord and the tenant attended the application.

Issue(s) to be Decided

Is the landlord entitled to an Order for Possession?

Preliminary matters and Service

The landlord testified that until recently the tenant's girlfriend resided with the tenant. Accordingly the landlord testified that he handed the tenant's girlfriend a copy of the Notice to End the Tenancy on April 25, 2016. Furthermore the landlord testified that he handed the tenant with a copy of the dispute resolution package and evidence on May 11, 2016. That package contained a copy of the Notice to End the Tenancy.

The tenant testified that his girlfriend only visited him occasionally but did not reside with him. He testified that she stayed with him two weeks a month. However later in the hearing he corrected that to only one week a month. He admitted that she was staying with him around the time that landlord delivered the Notice to her. He also referred to her as his wife or common law wife. Subsequently he testified that after the end of April she stopped visiting him and in fact will be moving to the mainland this week but may still visit him again. He testified that around April 25, 2016, he was fighting with his girlfriend and that she tore up the Notice, told him about it, but did not give it to him. He requested a copy from the landlord but he refused to give it to him. He admitted that the Notice was contained in the hearing package he received on May 11, 2016. He

admitted not disputing the Notice. Section 88 of the Act regarding service of documents such as the Notice, states as follows:

How to give or serve documents generally

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

(e) by leaving a copy at the person's residence with **an adult who apparently resides with the person;**

The tenant's evidence was inconsistent and did not make sense regarding whether his girlfriend resided in the unit. At one time he stated she only visited, then he referred to her as his wife or common law wife and kept changing the amount of times she "visited him." However he admitted that during the time the landlord gave the documents to his girlfriend she was in fact "staying there." I accept the landlord's evidence over the tenant's that the tenant's girlfriend was a person who apparently resided with the tenant as of April 25, 2016. Accordingly I find that the tenant received the Notice on April 25, 2016. Alternatively I find that the tenant received the Notice with the hearing package no later than May 11, 2016. The tenant attended this hearing and admitted receiving the Notice in the package. Therefore I find that the tenant was served sufficiently in accordance with the Act on April 25, 2016 or no later than May 11, 2016. I also find that the tenant received the dispute resolution package on May 11, 2016 delivered by hand by the landlord.

The tenant did not give the landlord a copy of his evidence and I have therefore excluded it but permitted the tenant to read any relevant portions into evidence at the hearing.

Background and Evidence

I found that the tenant was served with the Notice to End the Tenancy on April 25 or alternatively by May 11, 2016.

The Notice to End a Residential Tenancy relies on sections 47(1)(d) and (e) (ii) of the Residential Tenancy Act. Those sections provide as follows:

Landlord's notice: cause

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,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

(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, or

The tenant had not disputed the Notice. Pursuant to Section 47 (5) of the Act the tenant is conclusively presumed to have accepted that the tenancy has ended. Based on the above facts I find that the landlord is entitled to an order for possession. As the tenant has paid the rent for this month I order that the tenancy shall end on June 30, 2016.

Conclusion

I granted the landlord an Order for Possession effective June 30, 2016. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I have not made any order as to the recovery of the filing fee.

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 13, 2016

Residential Tenancy Branch