



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

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 an undisputed 1 Month Notice to End Tenancy for Cause dated February 2, 2016 (the "1 Month Notice").

The landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide her evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were served on the tenant by posting to the tenant's door on July 14, 2016 in the afternoon and was witnessed by another tenant from the building. Based on the above and without any evidence to the contrary I am satisfied that the tenant was served in accordance with the *Act*.

Issue to be Decided

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

Background and Evidence

The landlord affirmed that a month to month tenancy began in September of 2009 and that the tenancy was based on a verbal agreement. Monthly rent in the amount of \$415.00 is due on the first day of each month. The landlord stated that the tenant paid a

security deposit at the start of the tenancy but did not have the documents before her to confirm the amount during the hearing.

The landlord confirmed service of the 1 Month Notice by posting to the tenant's door on February 2, 2016. The 1 Month Notice had an effective vacancy date of February 3, 2016 which automatically corrects under section 53 of the *Act* to March 31, 2016. The landlord stated that the tenant did not dispute the 1 Month Notice and continues to occupy the rental unit. A copy of the 1 Month Notice was submitted in evidence. The landlord is seeking an Order of Possession and if she is entitled to it, the recovery of the cost of the filing fee pursuant to section 72 of the *Act*.

Analysis

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

Order of possession - I find that the tenant was deemed served with the 1 Month Notice on February 5, 2016, which is three days after the 1 Month Notice was posted to the tenant's door on February 2, 2016. Pursuant to section 90 of the *Act*, documents posted to the door are deemed served three days later. The tenant did not dispute the 1 Month Notice within 10 days of receiving 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 corrected effective vacancy date of the 1 Month Notice which was March 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 March 31, 2016. The tenant has been over-holding the rental unit since that date.

Pursuant to section 72 of the *Act*, as the landlord's application was successful, I grant the landlord **\$100.00** for the recovery of the cost of the filing fee. **I authorize** the landlord to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee. As the amount of the tenant's security deposit is unknown, the amount will be deducted by \$100.00 after interest is applied.

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 authorized to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee.

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: August 24, 2016

Residential Tenancy Branch