



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on August 16, 2016 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a 1 Month Notice to End Tenancy for Cause, dated July 31, 2016 (the "1 Month Notice"), and
- an order granting recovery of the filing fee.

Both parties attended the hearing on their own behalf and provided their solemn affirmations.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision. For the reasons described below, full consideration of the evidence submitted was not necessary.

Background

The Tenant's Application indicates the 1 Month Notice was received by the Tenant on August 2, 2016. During the hearing, the Tenant confirmed he received the 1 Month Notice on that date.

In addition, the Tenant's Application was received at the Residential Tenancy Branch on August 16, 2016, 14 days after receipt of the 1 Month Notice. The Tenant did not request more time to dispute the 1 Month Notice, pursuant to section 66(1) of the *Act*.

Analysis

Section 47(4) of the *Act* provides a mechanism for a tenant to dispute a notice to end tenancy by making an application for dispute resolution. The application for dispute resolution must be made within 10 days after the date the tenant receives the notice.

If a tenant does not dispute the notice within 10 days, section 47(5) of the *Act* creates the conclusive presumption that the tenant has accepted the end tenancy on the effective date of the notice to end tenancy.

I find that the 1 Month Notice was received by the Tenant on August 2, 2016, and that he did not dispute the 1 Month Notice until August 16, 2016.

As the Tenant did not file the Application within 10 days after receiving the 1 Month Notice, I find he is conclusively presumed to have accepted the tenancy ended on the effective date of the notice. Accordingly, the Tenant's claim is dismissed, without leave to reapply, and the 1 Month Notice is upheld.

When a tenant's application to dispute a landlord's notice to end tenancy is dismissed, section 55 of the *Act* requires that the arbitrator grant an order of possession to the landlord, if the notice to end tenancy complies with section 52 of the *Act*. Having reviewed the 1 Month Notice, I find it complies with section 52 of the *Act*.

By operation of section 55 of the *Act*, I grant the Landlord an order of possession, which will be effective two (2) days after it has been served on the Tenant.

As the Tenant has not been successful, I decline to grant an award for recovery of the filing fee.

Conclusion

The Tenant's Application is dismissed, without leave to reapply, and the 1 Month Notice is upheld.

By operation of section 55 of the *Act*, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: September 30, 2016

Residential Tenancy Branch