



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLARA HOLDINGS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the "Application") made by the corporate Landlord on September 30, 2016 for an Order of Possession based on a notice to end tenancy for cause and to recover the filing fee from the Tenant.

An agent for the Landlord, the owner of the rental unit, and the Tenant appeared for the hearing and provided affirmed testimony. The Tenant confirmed receipt of the Landlord's Application and the Notice of Hearing documents by registered mail. The Tenant also confirmed he had not provided documentary evidence prior to this hearing.

The hearing process was explained and the participants had no questions. Both parties were provided the opportunity to present evidence, make submissions, and cross-examine the other party.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

Both parties agreed that this tenancy started on December 2, 2014 on a month-to-month basis. A written tenancy agreement was completed and the Tenant paid \$410.00 as a security deposit at the start of the tenancy which the Landlord still retains.

Rent is currently payable by the Tenant in the amount of \$843.00 on the first day of each month. The Landlord confirmed the Tenant was not in any rental arrears but had habitually paid rent late, namely more than three times within the last six months of the tenancy.

As a result, the Landlord served the Tenant with a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") on August 23, 2016 by sending it to the Tenant by registered mail. The Landlord provided a copy of the 1 Month Notice which shows an vacancy date of September 29, 20016 and states the reasons for ending the tenancy is because: the Tenant is repeatedly late paying rent; the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and the Tenant has engaged in an illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or well-being of another occupant or the Landlord.

The Tenant confirmed that he had received the 1 Month Notice by registered mail three days after it was sent by the Landlord on September 29, 2016. The Tenant confirmed that he had been served with both pages of the 2 page 1 Month Notice. The Tenant was referred to the second page of the 1 Month Notice which gives an opportunity to the Tenant to dispute it by filing an Application within ten days of receiving it.

The Tenant confirmed that he did not make an Application. The Tenant explained that he was not aware that he could dispute the 1 Month Notice but acknowledging that he had repeatedly paid rent late in this tenancy. The Tenant asked the Landlord for another chance to prove that he can pay his rent on time. However, the owner of the rental unit confirmed his request for an Order of Possession.

Analysis

I have examined the 1 Month Notice and I find that it was completed with the correct information on the approved form as required by Section 52 of the Act. Section 48(5) of the Act allows a Tenant to dispute a 1 Month Notice by making an Application within ten days of receiving it. There is no evidence before me that the Tenant disputed the 1 Month Notice.

Section 48(6) of the Act states that if a Tenant fails to make an Application within ten days, the Tenant is conclusively presumed to have accepted that the tenancy ended on the vacancy date of the Notice and must vacate the rental unit by that date. As a result, I must grant the Landlord's request for an Order of Possession.

As there are no rental arrears in this tenancy at the time of this hearing, the Order of Possession can only be effective at 1:00 p.m. on November 30, 2016. This order must be served onto the Tenant and may then be filed and enforced in the BC Supreme Court as an order of that court. The Tenant maybe held liable for any costs associated with the enforcement of the order. Copies of the order are attached to the Landlord's copy of this Decision.

Since the Landlord has been successful in this Application, I also grant the \$100.00 filing fee to the Landlord. The Landlord may achieve this relief by deducting this amount from the Tenant's security deposit pursuant to Section 72(2) (b) of the Act.

Conclusion

The Tenant failed to dispute the 1 Month Notice. The Landlord is granted an Order of Possession effective at 1:00 p.m. on November 30, 2016. The Landlord may recover the filing fee from the Tenant's 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 Act.

Dated: November 23, 2016

Residential Tenancy Branch