



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, ET, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an order of possession for cause, and early end of tenancy and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on September 21, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each respondent via registered mail to the address noted on the Application. A Canada Post tracking number was provided as evidence of service to each tenant.

The mail sent to each of the three respondents was returned to the landlord, marked by Canada Post as unclaimed. The respondents continue to reside at the property where the mail was sent.

A refusal to claim registered mail does not allow a party to avoid service. Therefore, I find that these documents are deemed to have been served on the fifth day after mailing, in accordance with section 89 and 90 of the Act.

The tenants did not attend the hearing.

Preliminary Matters

The landlord has issued a one month Notice to end tenancy for cause. The hearing proceeded on the basis of this Notice; not an early end to tenancy.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on cause?

Background and Evidence

The tenancy commenced on July 9, 2013. Rent is due biweekly; in order to coincide with the mortgage payments made by the landlord. A tenancy agreement was not signed. In August rent was due on August 3 and 16, 2016.

The landlord stated that on August 22, 2016 a one month Notice ending tenancy for cause, which had an effective date of September 30, 2016, was served to tenant D.O., via registered mail. The landlord provided the Canada Post tracking number. The mail was accepted by D.O. on August 24, 2016.

The Notice indicated that the tenants had the right to dispute the Notice within 10 days after the tenants were assumed to have received the Notice. The Notice also indicated that if the tenants did not dispute the Notice the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental by the date set out in the Notice.

There was no evidence before me that the tenants disputed the Notice.

Analysis

I find that the tenants received the Notice ending tenancy on August 24, 2016; the date C.O. signed accepting the registered mail.

Section 47(2) of the Act stipulates that a one month Notice is effective not earlier than one month after the date the Notice is given. As the tenants received Notice on August 24, 2016, I find that the earliest effective date of the Notice is September 30, 2016.

In the absence of evidence to the contrary, I find that the tenants were served with a Notice ending tenancy that required the tenants to vacate the rental unit on September 30, 2016, pursuant to section 47 of the Act.

Section 47 of the Act stipulates that a tenant has 10 days from the date of receiving the Notice ending tenancy to dispute the Notice. There was no evidence before me that the tenants disputed the Notice. Therefore, pursuant to section 47(5) of the Act, I find that the tenants accepted that the tenancy has ended on the effective date of the Notice; September 30, 2016.

As the landlords' claim has merit I find, pursuant to section 72 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord has been granted an order of possession that is effective two days after service to the tenants. This order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The landlord is entitled to an Order of possession based on a one month Notice ending tenancy for cause issued on August 22, 2016.

The landlord is entitled to filing fee costs.

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: November 15, 2016

Residential Tenancy Branch