



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPB, FF

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking an order of possession. The hearing was conducted via teleconference and was attended by both landlords. The landlords provided documentary evidence to confirm the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on November 15, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed. Based on the submission of the landlords, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlords submitted the tenancy began on July 4, 2016 as a 6 month fixed term tenancy for a monthly rent of \$795.00 due on the 1st of each month with a security deposit of \$397.50 paid.

The landlords submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued on August 18, 2016 with an effective vacancy date of September 30, 2016 citing a breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The landlord also submitted a Proof of Service document confirming the 1 Month Notice was served to the tenant by posting it on the rental unit door on August 18, 2016 at 2:00 p.m. and that this service was witnessed by a third party.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if among other reasons the tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

Section 47(4) allows a tenant who receives a notice under Section 47 to apply to dispute the notice within 10 days of receiving it. Section 47(5) states that if a tenant does not file an Application for Dispute Resolution seeking to cancel such a notice the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

In the absence of any evidence to the contrary, I find the landlords have served the tenant with the Notice as described above. I find the tenant received the 1 Month Notice on August 21, 2016 pursuant to Section 90 of the *Act*. As a result, I find the tenant had until August 28, 2016 to file an Application for Dispute Resolution if he wanted to dispute the Notice.

As there is no evidence before me that the tenant has filed an Application for Dispute Resolution to cancel the Notice, I find the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the property.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$100.00** comprised of the fee paid by the landlords for this application. This order must be served on the tenant. If the tenant fails to comply with this order the landlords may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: December 12, 2016

Residential Tenancy Branch