



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated October 21, 2016 was served on the tenant by registered mail sent on the same date. The landlord provided a Canada Post tracking number as evidence. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on October 26, 2016, five days after mailing.

The landlord testified that the landlord's application for dispute resolution dated December 5, 2016 was served on the tenant by registered mail sent on December 8, 2016. The landlord provided a Canada Post tracking number as evidence. In accordance with section 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application package on December 13, 2016, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in September, 2011. The current rent is \$652.00 payable on the 1st of the month. A security deposit of \$326.00 was paid by the tenant at the start of the tenancy and still held by the landlord. The tenant continues to reside in the rental unit at the time of the hearing.

The landlord testified that the tenant has seriously jeopardized the health and safety of other occupants by allowing his rental unit to be filled with garbage, vermin and waste. The landlord submitted into written evidence several warning letters issued to the tenant by the landlord, photographs of the rental unit, and letters from pest control companies regarding the condition of the rental unit.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend.

I am satisfied that the form and content of the landlord's 1 Month Notice complies with section 52 of the *Act* and was served in accordance with section 88 of the *Act*. I accept the landlord's evidence that the tenant has seriously jeopardized the health and safety of other occupants. I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$100.00, which is to be implemented by the landlord's retention of this amount from the tenant's security deposit. I order that the value of the retained portion of the tenant's security deposit is decreased from \$326.00 to \$226.00.

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: January 11, 2017

Residential Tenancy Branch