



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 a landlord's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") to obtain an order of possession based on an undisputed 1 Month Notice for Cause dated November 20, 2016 (the "1 Month Notice") and to recover the cost of the filing fee.

The landlord, a property manager for the landlord, and tenant M.P. (the "tenant") who claims he was representing the other tenant also, C.D. appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed having been served with the landlord's documentary evidence and that the tenants did not serve any documentary evidence in response to the landlord's evidence or Application.

Issue to be Decided

- Is the landlord entitled to an order of possession for cause under the *Act*?

Background and Evidence

The parties agreed that a month to month tenancy began approximately 23 years ago. The parties agreed that monthly rent is due on the first day of each month. Neither party could recall the amount of the security deposit.

The landlord confirmed service of the 1 Month Notice by person service on tenant C.D. on November 20, 2016 personally at the rental unit and that the male tenant, M.P. would not sign the 1 Month Notice. Tenant C.D. did sign the 1 Month Notice which was submitted in evidence. Neither tenant disputed the 1 Month Notice which has an effective date of December 31, 2016. The landlord stated that the tenants continue to occupy the rental unit and as a result the landlord is seeking an order of possession.

The landlord testified that the tenants have paid for "use and occupancy" for the month of January 2017.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – Based on the 1 Month Notice submitted in evidence, I find that tenant C.D. was served with the 1 Month Notice on November 20, 2016, the date tenant C.D. signed the 1 Month Notice. Based on the undisputed evidence before me that neither tenant disputed the 1 Month Notice, pursuant to section 47 of the *Act*, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the 1 Month Notice, which was December 31, 2016.

The tenants continue to occupy the rental unit. Pursuant to section 55 of the *Act*, I must grant the landlord an order of possession **effective January 31, 2017 at 1:00 p.m.** which must be served on the tenants. This date was chosen as there is no dispute that the tenants have paid for use and occupancy for the month of January 2017.

I find the tenancy ended on December 31, 2016 and that the tenants have been over-holding the rental unit since that date.

As the landlord's application was successful, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**.

Conclusion

The landlord's application is successful.

The landlord is granted an order of possession effective January 31, 2017 at 1:00 p.m. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

The tenancy ended on December 31, 2016.

I grant the landlord a monetary order in the amount of \$100.00 pursuant to section 67 and 72 of the *Act* in full satisfaction of the recovery of the cost of the filing fee under the *Act*. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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: January 24, 2017

Residential Tenancy Branch