



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on January 25, 2017, and amended on January 27, 2017 (the "Application"). The Landlord applied for an order of possession for cause, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by M.V. The Tenant attended the hearing on his own behalf and was accompanied by the following: D.F., a community support worker; M.L., a Community Corrections representative; L.R.; and K.L., a probation officer. All parties giving oral testimony provided a solemn affirmation.

On behalf of the Landlord, M.V. testified the Landlord's Application package, including the Notice of a Dispute Resolution Hearing and documentary evidence, was served on the Tenant at his apartment on January 24, 2017. The Tenant acknowledged receipt and did not dispute the manner of service. I find the Tenant was duly served with the Landlord's Application package on January 24, 2017.

In addition, M.V. testified an Amendment to an Application for Dispute Resolution, received at the Residential Tenancy Branch on January 27, 2017, was served on the Tenant at his apartment on January 27, 2017 (the "Amendment"). The Tenant acknowledged receipt and did not dispute the manner of service. I find the Tenant was duly served with the Amendment on January 27, 2017.

The parties attended the hearing and were prepared to proceed. No issues were raised with respect to service or receipt of the above documents. The parties were given opportunities to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Is the Landlord entitled to an order of possession for cause?

Background and Evidence

The Landlord submitted into evidence a copy of the written tenancy agreement between the parties. It confirms a month-to-month tenancy commenced on August 1, 2008. According to the Tenant, rent of approximately \$728.00 per month is currently paid directly to the Landlord by a third party. The Tenant paid a security deposit of \$250.00, which the Landlord holds.

On behalf of the Landlord, M.V. confirmed the Landlord issued a 1 Month Notice to End Tenancy for Cause, dated January 9, 2017 (the "1 Month Notice"). M.V. testified the 1 Month Notice was served on the Tenant by posting a copy to the door of the Tenant's rental unit on January 9, 2017. In support, the Landlord submitted a Proof of Service form, signed by a witness, J.F.

The Tenant acknowledged receipt of the 1 Month Notice but could not recall the specific date. He noted problems with alcohol and referred to the death of his girlfriend's mother as mitigating factors.

Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 47 of the *Act* permits a landlord to end a tenancy for cause. In this case, M.V. testified the 1 Month Notice was served on the Tenant by posting a copy on the door of his rental unit on January 9, 2017. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the 1 Month Notice is deemed to have been received on January 12, 2017. In addition, I find that the incorrect effective date indicated on the 1 Month Notice is corrected to February 28, 2017, pursuant to section 53 of the *Act*.

Upon receipt of a notice to end tenancy for cause, section 47(4) of the *Act* requires a tenant to make an application for dispute resolution within 10 days after receiving the notice. If a tenant does not make an application for dispute resolution, the tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the notice.

In this case, I have found the 1 Month Notice was deemed to have been received by the Tenant on January 12, 2017. The Tenant had ten days after receipt – until January 22, 2017 – to dispute the 1 Month Notice by filing an application for dispute resolution. He did not. Accordingly, I find the Tenant is conclusively presumed to have accepted the tenancy ends on February 28, 2017. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective on February 28, 2017, at 1:00 p.m.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. This amount may be deducted from the security deposit held by the Landlord.

Conclusion

I grant the Landlord an order of possession, which will be effective February 28, 2017, at 1:00 p.m. This Order may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: February 21, 2017

Residential Tenancy Branch