



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter reg

DECISION

Dispute codes OPR OPC CNR CNC LRE LAT OLC FF

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

Landlord:

- an order of possession for failure to pay rent and for cause pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant:

- cancellation of the landlord's 10 Day Notice to End Tenancy for unpaid rent pursuant to section 46;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing. Both parties acknowledged service of the respective applications for dispute resolution including amended applications from each side including all evidence before me.

At the outset of the hearing the tenant advised she was no longer disputing the Notice(s) to End Tenancy and would be vacating the rental unit on the following day. After unsuccessfully attempting to obtain the landlord's agreement with respect to return of the security deposit, the tenant abruptly left the conference call and did not return.

Issues

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

Is the landlord entitled to recover its filing fee?

Background and Evidence

The tenancy began on September 1, 2016 with a monthly rent of \$3000.00 payable on the 1st day of each month. The tenant paid a security deposit of \$1500.00 and pet deposit of \$1500.00 at the start of the tenancy which the landlord continues to hold.

The tenant was personally served with the 1 Month Notice to End Tenancy for Cause on January 24, 2017.

The tenant made an application to dispute the Notice on January 27, 2017.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the 1 Month Notice.

Although the tenant filed an application for dispute resolution within the time limit permitted under the Act, the tenant advised in the hearing that she was no longer disputing the Notice and was vacating the rental unit. The tenant's application is therefore dismissed.

Section 55(1) of the Act states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 52 of the Act.

I find that the Notice issued on January 24, 2017 complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the tenant had filed an application to dispute the Notice, the landlord did not need to file its own application for an order of possession. Therefore, the landlord is not entitled to recover the \$100.00 filing fee paid for this application. The tenant is also not entitled

to recover the filing fee as the tenant did not pursue her application to dispute the Notice.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed 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 27, 2017

Residential Tenancy Branch