



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An Order of Possession pursuant to section 47 of the *Act*.

Although the landlord attended this hearing, the tenant did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord provided evidence that a 1 Month Notice to End Tenancy (the 1 Month Notice) was sent to the tenant by Registered Mail on November 24, 2016. A Canada Post tracking number was provided to the hearing. Pursuant to sections 88 and 90 of the *Act*, the tenant was deemed served with the 1 Month Notice on November 29, 2016.

The landlord gave sworn testimony that on January 12, 2017 a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was served on the tenant by way of Registered Mail. A Canada Post tracking number was provided to the hearing. Pursuant to sections 88, 89 and 90 of the *Act*, the tenant was deemed served with the dispute resolution hearing package on January 17, 2017.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord gave evidence that the original lease for the rental unit began on August 1, 2004. Monthly rent started at \$900.00 and rose steadily over time to its current rate of \$1,029.00. The landlord testified that he continued to hold the \$450.00 security deposit.

The landlord has applied for an Order of Possession based on a 1 Month Notice to End Tenancy for Cause. The landlord testified that the tenant has repeatedly paid rent late from September – December 2016, and again in January 2017. As part of his evidentiary package the landlord provided copies of the receipts for late payment of rent

given to the tenant. These receipts state that rent is received *for use and occupancy only*.

Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, December 31, 2016.

The landlord stated that due to the current weather, they would like the Order of Possession to be drafted for February 28, 2017. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit by 1:00 P.M. on February 28, 2017, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The landlord will be given a formal Order of Possession which must be served on the tenant. **If the tenant does not vacate the rental unit by 1:00 P.M. on February 28, 2017, the landlord may enforce this Order in 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 10, 2017

Residential Tenancy Branch

