



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPQ

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution (the "Application") under the Residential Tenancy Act (the "Act") for an order of possession because the tenant does not qualify for subsidized housing.

The landlord's agent (the "landlord") appeared at the teleconference hearing and gave affirmed testimony. The tenant did not appear although the hearing lasted 10 minutes. During the hearing the landlord was given a full opportunity to be heard, to present sworn testimony and make submissions. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the landlord's Application and Notice of a Dispute Resolution Hearing (the "Notice of Hearing") were considered.

The landlord testified that the tenant was served with a copy of the landlord's Application and Notice of Hearing by registered mail. The landlord testified that the registered mail was sent to the tenant's address on February 17, 2017. The landlord testified that the mailing was received by the tenant who signed for it on February 21, 2017. The landlord provided the Canada Post Customer Tracking Number orally to confirm the mailing and delivery. Taking into account the undisputed testimony of the landlord and in accordance with section 89 of the Act, I find that the tenant was duly served with a copy of the landlord's Application and the Notice of Hearing on February 21, 2017.

Issue to be Decided

- Is the landlord entitled to an order of possession because the tenant does not qualify for subsidized housing?

Background and Evidence

The landlord's evidence established that a month to month tenancy started on June 1, 2007 pursuant to the most recent tenancy agreement signed by the tenant. The tenant resides in a

subsidized housing unit where rents are determined by the tenant's income and assets. The tenant is required to provide household income and asset information to the landlord from time to time. Based upon the financial information provided by the tenant on March 2, 2015, the tenant's rent contribution was calculated to be \$193.00 due on the first day of each month.

The landlord's evidence established that on July 11, 2016, the tenant was informed that she was required to provide "proof of income and asset" information to the landlord on or before July 25, 2016. The tenant did not provide the required information.

The landlord served the tenant with a Two Month Notice to End Tenancy For Landlord's Use of Property (the "Two Month Notice") in person by leaving a copy with the tenant on August 8, 2016. The landlord's reason for ending the tenancy set out in the Two Month Notice is that the tenant no longer qualifies for the subsidized rental unit. The effective move out date shown on the Two Month Notice is October 31, 2016.

The landlord gave the tenant a letter dated August 10, 2016 requesting the tenant's income and asset information. The tenant did not respond to the request for information.

The landlord gave the tenant a second letter dated November 4, 2016 requesting the same financial information and cautioning the tenant that the landlord would proceed with an application to end the tenancy if the tenant did not submit the requested information. The tenant did not respond.

The landlord testified that the tenant has not paid rent due for the month of March 2017.

The landlord is seeking an order of possession on the basis that the tenant has ceased to qualify for the subsidized rental unit by not providing the requested financial information.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows.

As the tenant was served with the Application and Notice of Hearing and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful as I find the evidence supports the landlord's claim and is reasonable.

I find that the rental unit is in a subsidized housing unit. I find that the tenant was required to provide financial information to the landlord and that the tenant did not provide the required information. As a result of not complying with the landlord's request for further financial information, I find that the tenant has ceased to qualify for the subsidized rental unit.

Pursuant to section 49.1(2) of the *Act*, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant ceases to qualify for the rental unit.

I find that the tenant was served with a valid Two Month Notice on August 8, 2016 that required the tenant to vacate the rental unit on October 31, 2016, pursuant to section 49.1(3) of the *Act*.

Section 49.1(5) of the *Act* stipulates that a tenant has fifteen days from the date of receiving the Two Month Notice to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised this right; therefore, pursuant to section 49.1(6) of the *Act*, I find that the tenant is conclusively presumed to have accepted that the tenancy has ended on the effective date of the Two Month Notice, October 31, 2016.

As the tenancy has ended pursuant to section 49.1(6) of the *Act*, I find that the landlord is entitled to an order of possession that is effective two days after service on the tenant.

Conclusion

The landlord's application is successful.

Pursuant to section 55 of the *Act*, 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: March 15, 2017

Residential Tenancy Branch