



DECISION

Dispute Codes FF OPC

Introduction

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

- an Order of Possession for non-payment of rent and utilities pursuant to section 55 of the *Act*; and
- a return of the Filing Fee pursuant to section 72 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 for Cause was posted on the tenant's door on in person on September 23, 2016. Pursuant to sections 88 and 90 of the *Act*, the tenant is deemed to have been served September 26, 2017.

The landlord gave sworn testimony that on February 10, 2017 a copy of the Application for Dispute Resolution hearing package as well as the evidentiary package was send to the tenant by way of Registered Mail. A copy of the Canada Post tracking number was provided to the hearing. Pursuant to sections 88, 89 and 90 of the *Act*, the tenant was served with the dispute resolution hearing package on February 15, 2017.

The landlord failed to produce a copy of the 1 Month Notice issued to the tenant. As such, the landlord was asked to fax the arbitrator a copy of this notice before 4:00 P.M. on March 8, 2017. A fax containing this information was received by the *RTB* office prior to this deadline.

Issue(s) to be Decided

- is the landlords entitled to an Order of Possession?
- Can the landlord recover the filing fee from the tenant?

Background and Evidence

The landlord testified that this tenancy began on February 1, 2014. Rent was set at \$880.00 per month and a security deposit of \$440.00 continues to be held by the landlord.

The landlord stated that he was seeking an Order of Possession due to ongoing issue he has had with the tenant. Specifically, the landlord stated that the tenant has had an unreasonable number of occupants in the rental unit and regularly disturbs the other residents of the building.

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, November 30, 2016.

I am therefore issuing an Order of Possession to the landlords effective 2 days after service on the tenant.

As the landlord was successful in his application, the landlord pursuant to section 72 of the *Act* may withhold \$100.00 from the tenant's security deposit to recover the costs of the filing fee.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

The landlord may withhold \$100.00 from the tenant's security deposit to recover the filing fee.

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 9, 2017

Residential Tenancy Branch