



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover the filing fee for the application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 10 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated April 29, 2017 was served on the tenants by registered mail, on that date. The landlord submitted into written evidence two Canada Post tracking numbers as evidence of service. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 1 Month Notice on April 4, 2017, five days after mailing.

The landlord testified that the landlord's application for dispute resolution dated May 19, 2017 was served on the tenants with the evidentiary materials by registered mail sent on that same date. The landlord provided two Canada Post tracking numbers as evidence of service. I find that the tenants were deemed served with the landlord's application package in accordance with sections 88, 89 and 90 of the *Act*, on May 24, 2017, five days after mailing.

Issue(s) to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in August, 2015. The current monthly rent is \$1,700.00 payable on the first of each month. A security deposit of \$850.00 was collected at the start of the tenancy and is still held by the landlord. The tenants continue to occupy the rental unit.

The landlord testified that the tenants have had numerous aggressive interactions with other occupants of the rental building. The tenants own two very large and aggressive dogs that have lunged at other occupants. In addition the tenants allow their dogs to defecate and urinate throughout the rental building. The tenants have created noise disturbances and have threatened other occupants of the rental building. The landlord submitted into written evidence a series of letters from the strata management company for the building from March, 2016 to May, 2017 as evidence of the various infractions and disturbance. The landlord said the tenants' behaviour have significantly interfered with and unreasonably disturbed the other occupant and seriously jeopardized the health and safety of other occupants of the rental building.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend.

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenants have failed to file an application for dispute resolution within the 10 days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenants are conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ends on the effective date of the 1 Month Notice, May 31, 2017.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue a 2 day Order of Possession.

As the landlord's application was successful he is also entitled to recover the filing fee for this application from the tenants.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenants' \$850.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The tenant's security deposit is reduced by \$100.00 to \$750.00.

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: July 4, 2017

Residential Tenancy Branch