



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 a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated June 10, 2017 (the "1 Month Notice") and to recover the cost of the filing fee.

The landlord and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Neither party raised any concerns regarding the service of documentary evidence.

Issue to be Decided

- Is the landlord entitled to an order of possession based on an undisputed 1 Month Notice under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on January 21, 2017. Monthly rent in the amount of \$1,700.00 is due on the 21st day of each month. The tenant paid a security deposit of \$850.00 at the start of the tenancy which the landlord continues to hold.

The tenant confirmed receiving the 1 Month Notice dated June 10, 2017 on June 13, 2017. The tenant confirmed that she did not file an application to dispute the 1 Month Notice.

The landlord confirmed that she has since accepted money for “use and occupancy” for the rental unit for September 2017. The landlord provided copies of both pages of the 1 Month Notice in evidence.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of possession – The tenant testified that she received the 1 Month Notice on June 13, 2017 and did not dispute the 1 Month Notice by filing an application for dispute resolution. Pursuant to section 47 of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, which was July 31, 2017.

Section 55 of the *Act* applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Given the above, I have reviewed the 1 Month Notice and find that it complies with section 52 of the *Act*. I also find that it is not necessary to consider any of the grounds listed in the 1 Month Notice as the tenant did not dispute the 1 Month Notice.

The tenant continues to occupy the rental unit. Pursuant to section 55 of the *Act*, **I grant the landlord an order of possession effective September 30, 2017 at 1:00 p.m.** which must be served on the tenant. The date of September 30, 2017 was used as the landlord confirmed that money for use and occupancy was received for September 2017.

As the landlord's application was successful, I grant the landlord **\$100.00** pursuant to section 72 of the *Act* for the recovery of the cost of the filing fee. As the landlord continues to hold a security deposit of \$850.00 **I authorize** the landlord to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee pursuant to section 67 and 72 of the *Act*. Based on the above, I find that the tenant's security deposit is now \$750.00 and continues to be held by the landlord.

Conclusion

The landlord's application is fully successful.

I find the tenancy ended on July 31, 2017 which was the effective date of the 1 Month Notice. The landlord is granted an order of possession **effective September 30, 2017 at 1:00 p.m.** This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been authorized to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee pursuant to section 67 and 72 of the *Act*. The tenant's security deposit is now \$750.00.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 1, 2017

Residential Tenancy Branch