



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing was convened to deal with an application by the landlord pursuant to the *Residential Tenancy Act* (the “Act”). The landlord’s application, filed July 5, 2017, is for an order of possession based on a 1 Month Notice to End Tenancy for Cause dated July 5, 2017 (the “1 Month Notice”).

The landlord attended the hearing was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to refer to documentary evidence. The tenant did not attend the hearing.

As the tenant did not attend the hearing, service of the landlord’s application and the notice of hearing was considered. The landlord provided affirmed testimony that she sent these by Canada Post registered mail on July 14, 2017 to the rental unit address. A tracking number was provided in support and is reproduced on the cover page of this decision. I accept that the landlord served the tenant with these materials and, pursuant to s. 90 of the Act, the tenant is deemed to have received them five days after they were mailed.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that this tenancy began in or about September of 2016 while she was abroad. It was arranged by another family member. There is therefore no written tenancy agreement and no security deposit was paid. Monthly rent is \$1,400.00 and is payable on or around the first of each month.

The landlord testified that she served the tenant with the 1 Month Notice on July 5, 2017 by posting it on the door of the rental unit. A Proof of Service document was included in the landlord’s evidence but is not signed by the third party witness.

The landlord further testified that the tenant has not applied to dispute the 1 Month Notice but remains in the rental unit. The tenant has paid rent for September of this year.

Analysis

Section 47 of the Act allows a landlord to end a tenancy for cause. Section 47(5) of the Act provides that if the tenant does not apply to dispute a 1 Month Notice within 10 days of receipt, the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy will end on the effective date of the notice.

I accept the landlord's affirmed testimony that she served the tenant with the 10 Day Notice by posting it on the door on July 5, 2017. By operation of s. 90 of the Act the tenant is deemed to have received the notice on July 8, 2017, three days after it was posted.

As the tenant has not applied to dispute the 1 Month Notice, the tenant has accepted that the tenancy has ended on July 18, 2017, the corrected effective date of the notice.

As the tenant has paid rent for September, I issue the landlord an order of possession effective **September 30, 2017, at 1:00 pm.**

A copy of this order must be served on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. **The tenant is cautioned that costs of such enforcement are recoverable from the tenant.**

Conclusion

The landlord's application is allowed.

I grant an order of possession to the landlord effective **at 1:00 pm on September 30, 2017.** Should the tenant or anyone 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the Act. Pursuant to s. 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 21, 2017

Residential Tenancy Branch