



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding BELMONTE APTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPB

Introduction

This matter dealt with an application by the Landlord to end the tenancy and for an Order of Possession.

The Landlord's agent said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 31, 2017. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord's agent and the Tenant in attendance.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on April 1, 2014 as a month to month tenancy. Rent is \$693.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$430.00 at the start of the tenancy.

The Landlord's agent said he issued a 1 Month Notice to End Tenancy for Cause dated July 10, 2017 by registered mail to the Tenant on July 11, 2017. The Notice to End Tenancy has an effective vacancy date of August 31, 2017 on it.

The Tenant said he has not made an application to dispute the Notice to End Tenancy or the Landlord's application as he thought the situation was resolved when he paid his rent and returned the entrance key to the Landlord that he gave to a guest. The Tenant asked the Landlord to continue the tenancy.

The Landlord's agent said the Landlord has instructed him to end the tenancy if the Landlord's application is successful. The Landlord requested an Order of Possession for as soon as possible or for November 30, 2017. .

The Tenant said he did not understand the process and he would like to continue the tenancy.

The Landlord's agent said no the Landlord does not want to continue the tenancy. .

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 5 days after it was served by registered mail, or on July 16, 2017. Consequently, the Tenant would have had to apply to dispute the Notice to End Tenancy by July 26, 2017.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect at 1:00 p.m. on November 30, 2017.

Conclusion

An Order of Possession effective November 30, 2017 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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: November 20, 2017

Residential Tenancy Branch