



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, dated September 5, 2017 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for cause; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf and was accompanied by a witness, who did not participate in the hearing. The Tenant attended the hearing on his own behalf and was assisted by J.G., an advocate. All parties giving evidence provided a solemn affirmation.

The Landlord testified he served the Application package on the Tenant by registered mail on November 6, 2017. A Canada Post registered mail receipt was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Application package is deemed to have been received on November 11, 2017. The Tenant did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy has been in place for 3-4 years. Rent is due in the amount of \$400.00 per month. The Tenant paid a security deposit of \$200.00, which the Landlord holds.

The Landlord testified a One Month Notice to End Tenancy for Cause, dated July 31, 2017 (the "One Month Notice"), was served on the Tenant by posting a copy to the door of the Tenant's rental unit on that date. The Tenant acknowledged receipt on July 31, 2017.

The Tenant did not dispute the One Month Notice by filing an application for dispute resolution. On behalf of the Tenant, J.G. suggested the Tenant's command of English may have prevented him from recognizing he needed to dispute the One Month Notice.

Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 47 of the *Act* permits a landlord to end a tenancy in the circumstances described therein. Upon receipt of a notice to end tenancy for cause, a tenant who wishes to dispute the notice must do so by filing an application for dispute resolution. Failure to dispute the notice to end tenancy for cause within 10 days after receipt results in the conclusive presumption the tenancy has accepted the end of the tenancy.

In this case, the Tenant confirmed he received the One Month Notice on July 31, 2017. Accordingly, he had until August 10, 2017, to dispute the One Month Notice by filing an application for dispute resolution. He did not. Accordingly, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the One Month Notice. The Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee, which I order may be retained from the security deposit held by the Landlord.

Conclusion

I grant the Landlord an order of possession, which will be effective two (2) days after service upon the Tenant. This Order may be filed in 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 27, 2017

Residential Tenancy Branch